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**Mary Fallin, Governor**  
**V. Glenn Coffee,**  
**Secretary of State**  
**Peggy Coe, Editor-in-Chief**

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# Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

*For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.*

## **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES**

*[OAR Docket #11-110]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 3. Fee Schedules [AMENDED]

### **SUMMARY:**

The proposed rules amend certain fees contained in Subchapter 3 pertaining to fee payment, animal health, feed and fertilizer, meat chemistry, dairy, food, water, microbiological, pesticide, and water and sediment inorganics. These rules allow the Oklahoma Department of Agriculture, Food, and Forestry's Laboratory Services Division to recoup some of the costs associated with conducting the specific tests addressed by the amendments. In some cases fees are lowered due to changes in the Department's costs to conduct the analyses.

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(20) and 14-83; Article 6, Section 31, Constitution of the State of Oklahoma

### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m., March 17, 2011, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

### **CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-110; filed 1-26-11]*

## **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS**

*[OAR Docket #11-103]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions [AMENDED]

Subchapter 9. Packaging and Labeling of Products [AMENDED]

Subchapter 11. Checking the Net Contents of Packaged Goods [AMENDED]

Subchapter 19. Examination Procedures for Price Verification [AMENDED]

### **SUMMARY:**

The proposed rules update any necessary dates of incorporations by reference and updates or deletes the rules to be in accordance with the 2010 Oklahoma Legislature's Senate Bill 1857.

### **AUTHORITY:**

Oklahoma Department of Agriculture, Food, and Forestry; 2 O.S. §§ 2-4, 14-31 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

### **COMMENT PERIOD:**

Persons may submit written to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), or 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

### **PUBLIC HEARING:**

A public hearing will be held at 12:00 p.m., March 17, 2011, in the Animal Industry conference room of the Oklahoma

## Notices of Rulemaking Intent

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Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

### **CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-103; filed 1-26-11]*

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## **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY**

*[OAR Docket #11-106]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 22. Swine Pseudorabies [AMENDED]
- Subchapter 24. Swine Brucellosis [AMENDED]

### **SUMMARY:**

The purpose of these rules is to reorganize the rules pertaining to swine diseases, import requirements, exhibition requirements, and change of ownership. The current organization of these rules is extremely complicated and not user friendly from a producer's standpoint. This reorganization will delete obsolete rules, place all requirements for import of swine into a single location in the rules, as well as for the programs.

### **AUTHORITY:**

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2; Article 6, Section 31, Constitution of the State of Oklahoma.

### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804

during the period from February 15, 2011 through March 17, 2011.

### **PUBLIC HEARING:**

A public hearing will be held at 10:30 a.m., March 17, 2011, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

### **CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-106; filed 1-26-11]*

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## **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY**

*[OAR Docket #11-107]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

- Subchapter 11. Importation of Livestock, Poultry, and Pets
- Part 13. Equine Piroplasmiasis [NEW]

### **SUMMARY:**

The purpose of these rules is to protect the Oklahoma equine population from the proliferation of Equine Piroplasmiasis. Equine Piroplasmiasis is a hemoparasitic infection of horses, donkeys, mules, and zebras. It can be spread either naturally by ticks or through contaminated needles, syringes, and surgical equipment. Caused by the protozoa *Theileria* (formerly *Babesia*) equi and *Babesia caballi*, the disease is characterized by anemia, fever, anorexia, depression, and icterus. Equine Piroplasmiasis is a World Organization for Animal Health (OIE) notifiable disease. Any suspect cases should be reported immediately to the State Veterinarian. With the exception of Puerto Rico and the U.S. Virgin Islands, the United States has been considered free of naturally transmitted EP since

1988. In October 2009, a domestic horse in Texas tested positive for EP. An epidemiologic investigation found over 300 Equine Piroplasmosis positive horses originating from the index premises and suggested natural transmission of EP through ticks was occurring there. USDA prepared an advisory document for interstate transfers of animals infected with Equine Piroplasmosis. These rules adopt those same standards as intrastate standards for movement of animals.

**AUTHORITY:**

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2; Article 6, Section 31, Constitution of the State of Oklahoma.

**COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

**PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m., March 17, 2011, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

**CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-107; filed 1-26-11]*

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 15. ANIMAL INDUSTRY**

*[OAR Docket #11-109]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

**PROPOSED RULES:**

Subchapter 5. Biological Products and Laboratories  
35:15-5-1 [AMENDED]

**SUMMARY:**

The proposed amendment ensures that the state definition of biological products is the same as the federal definition. USDA was concerned that the current state definition exceeded federal authority which is preemptive in this area.

**AUTHORITY:**

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2; Article 6, Section 31, Constitution of the State of Oklahoma.

**COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

**PUBLIC HEARING:**

A public hearing will be held at 9:30 a.m., March 17, 2011, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

**CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-109; filed 1-26-11]*

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 30. CONSUMER PROTECTION**

*[OAR Docket #11-104]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

## Notices of Rulemaking Intent

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### PROPOSED RULES:

Subchapter 4. Thousand Cankers Disease [NEW]

### SUMMARY:

The proposed rules create a permanent quarantine on the import of walnut live trees, dead wood, or wood products into Oklahoma from Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, or any other state or foreign country known to be infested by Thousand Cankers Disease. The quarantine is already in place temporarily and these rules make it a permanent quarantine.

### AUTHORITY:

Oklahoma Department of Agriculture, Food, and Forestry; 2 O.S. §§ 1-3(12), 2-4(A)(8), and 3-32.9.

### COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

### PUBLIC HEARING:

A public hearing will be held at 11:30 a.m., March 17, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

### CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-104; filed 1-26-11]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

*[OAR Docket #11-108]*

### RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

### PROPOSED RULES:

Subchapter 29. Fertilizer

Part 3. Liquid, Dry, and Anhydrous Ammonia

35:30-29-38 [AMENDED]

### SUMMARY:

The proposed rule brings state law in line with federal law regarding anhydrous ammonia tanks and their labeling.

### AUTHORITY:

Oklahoma Department of Agriculture, Food, and Forestry; 2 O.S. §§ 1-3(12), 2-4(A)(8), and 8-77.1 et seq..

### COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

### PUBLIC HEARING:

A public hearing will be held at 12:30 p.m., March 17, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

### CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-108; filed 1-26-11]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

*[OAR Docket #11-101]*

### RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

### PROPOSED RULES:

Subchapter 15. Organic Products

35:37-15-3 [AMENDED]

**SUMMARY:**

The proposed rule changes provide an increase in the fees for organic certification. The fees have not been raised since 2004. As a result, those fees no longer reflect the actual agency costs for the program. The new fees will be more reflective of the costs associated with providing organic certification.

**AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

**COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

**PUBLIC HEARING:**

A public hearing will be held at 1:00 p.m., March 17, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

**CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-101; filed 1-26-11]*

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 37. FOOD SAFETY**

*[OAR Docket #11-105]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking  
**PROPOSED RULES:**

- Subchapter 3. Meat Inspection
- Part 1. General Provisions [AMENDED]

- Part 3. Mobile Farm Slaughter Regulations [AMENDED]
- Part 5. Application for Inspection: Grant or Refusal of Inspection [AMENDED]
- Part 13. Plants Identified as Unsanitary [AMENDED]
- Subchapter 5. Poultry Products Inspection
- Part 1. General Provisions [AMENDED]
- Part 9. Miscellaneous [AMENDED]
- Subchapter 13. Milk and Milk Products
- Appendix A. Chemical, Bacteriological, and Temperature Standards for Milk and Milk Products [REVOKED]
- Appendix A. Chemical, Bacteriological, and Temperature Standards for Milk and Milk Products [NEW]

**SUMMARY:**

The proposed rule changes update the incorporation by reference of Code of Federal Regulations citations and the current PMO in the food safety rules, as well as updates the language related to mobile farm slaughter provisions and unsanitary plants in both the meat and poultry sections.

**AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

**COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

**PUBLIC HEARING:**

A public hearing will be held at 11:00 a.m., March 17, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

**CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

*[OAR Docket #11-105; filed 1-26-11]*

## Notices of Rulemaking Intent

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### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT

[OAR Docket #11-102]

#### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

#### **PROPOSED RULES:**

Subchapter 13. Healthy Corner Store [NEW]

#### **SUMMARY:**

The proposed rules implement the provisions of House Bill 3015 regarding adding healthy corner stores to the Oklahoma Agricultural Linked Deposit Program. The rules will provide certification procedures and other requirements for a healthy corner store.

#### **AUTHORITY:**

Oklahoma Department of Agriculture, Food, and Forestry; 2 O.S. §§ 2-4 and § 5-81 et seq.

#### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2011 through March 17, 2011.

#### **PUBLIC HEARING:**

A public hearing will be held at 8:30 a.m., March 17, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2011 through March 17, 2011.

#### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Teena Gunter at the above address.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

#### **CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [teena.gunter@oda.state.ok.us](mailto:teena.gunter@oda.state.ok.us)

[OAR Docket #11-102; filed 1-26-11]

### TITLE 75. ATTORNEY GENERAL CHAPTER 1. ADMINISTRATION

[OAR Docket #11-64]

#### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

#### **PROPOSED RULES:**

Subchapter 1. General Information [AMENDED]

Subchapter 7. Certification and Designation of Domestic Violence, Sexual Assault, Including Adult Victims of Sex Trafficking, and Batterers Intervention Programs [AMENDED]

#### **SUMMARY:**

Pursuant to Title 74 O.S. § 18p-6, the Attorney General is required to adopt and promulgate rules and standards for certification of domestic violence and sexual assault programs as well as batterers intervention programs. Title 74 O.S. § 18p-3 further provides that programs shall be subject to the provisions of the administrative rules of the Attorney General. The proposed amendments are necessary to clarify that the administrative rules apply to sexual assault programs serving victims of sex trafficking, specifically in a newly proposed 75 OAC 30 for adult victims of sex trafficking as well as include 75 OAC 25 for batterers intervention programs. A new requirement has also been added that programs shall consult with the OAG for review and recommendations regarding victim safety and confidentiality prior to constructing a new facility.

#### **AUTHORITY:**

Attorney General, Title 74 O.S. § 18p-1 et seq.

#### **COMMENT PERIOD:**

Persons wishing to make written comments may do so by 5:00 p.m., March 17, 2011, by sending to the Office of the Attorney General, Victims Services Unit, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105, or by facsimile at 405-557-1770 or emailing [Susan.Krug@oag.ok.gov](mailto:Susan.Krug@oag.ok.gov).

#### **PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input and oral comment on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Wednesday, March 23, 2011, at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21<sup>st</sup>, Oklahoma City, OK 73105.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period or during the public hearing on March 23, 2011, at the Office of the Attorney General at the above address.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21st, Oklahoma City, OK.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Victims Services Unit of the Office of the Attorney General at the above address on and after publication of this Notice of Rulemaking Intent on February 15, 2011.

**CONTACT PERSON:**

Susan Damron Krug, Assistant Attorney General, 405-522-0042

*[OAR Docket #11-64; filed 1-25-11]*

**TITLE 75. ATTORNEY GENERAL  
CHAPTER 15. STANDARDS AND CRITERIA  
FOR DOMESTIC VIOLENCE AND SEXUAL  
ASSAULT PROGRAMS**

*[OAR Docket #11-65]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 2. Domestic Violence and Sexual Assault Programs [AMENDED]
- Subchapter 5. Client Records and Confidentiality [AMENDED]
- Subchapter 7. Physical Environments [AMENDED]
- Subchapter 9. Program Management and Performance Improvement [AMENDED]
- Subchapter 13. Personnel and Volunteers [AMENDED]
- Subchapter 15. Governing Authority [AMENDED]
- Subchapter 17. Client Rights, Domestic Violence, Sexual Assault Programs and Shelters [AMENDED]

**SUMMARY:**

Amendments are necessary to amend service definitions in order to mirror the services as approved by the Department of Central Services for fee for service contracts. The definition of "client record," will ensure that all communication is included, not just paper records. The definition of "behavioral health professional" was taken out of the definition for counseling, and definitions for "release" or "waiver" and "referral" and "substance abuse services" were added. The difference between "staff" and "volunteer" is also enumerated. Programs will need to have a policy for provision of services to teenage boys over the age of twelve. Additionally, in order to ensure compliance with state and federal law, a provision was added that identifying information such as initials, age, year of birth or gender shall not be part of the client ID and that the same

discreet identifier shall be the client ID that is entered into the OAG data base without further encryption. The need to screen for stalking and providing evidence-based safety planning is clarified. Required training of staff and volunteers will include how to access services for persons with special needs including cognitive disabilities or who are deaf or hard of hearing, non-English speaking persons, or undocumented immigrants to include basic information on U visas and T visas. Governing authorities must have a conflict of interest agreement and have training on rules and standards to ensure multi-cultural needs of clients are met.

**AUTHORITY:**

Attorney General, Title 74 O.S. § 18p-1 et seq.

**COMMENT PERIOD:**

Persons wishing to make written comments may do so by 5:00 p.m., March 17, 2011, by sending to the Office of the Attorney General, Victims Services Unit, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105, or by facsimile at 405-557-1770 or emailing Susan.Krug@oag.ok.gov.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Wednesday, March 23, 2011, at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period or public hearing on March 23, 2011, at the Office of the Attorney General at the above address.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Office of the Attorney General at the above address on and after publication of this Notice of Rulemaking Intent on February 15, 2011.

**CONTACT PERSON:**

Susan Damron Krug, Assistant Attorney General, 405-522-0042

*[OAR Docket #11-65; filed 1-25-11]*

## Notices of Rulemaking Intent

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### **TITLE 75. ATTORNEY GENERAL CHAPTER 20. ADDRESS CONFIDENTIALITY PROGRAM**

*[OAR Docket #11-66]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Chapter 20. Address Confidentiality Program  
[AMENDED]

#### **SUMMARY:**

The Attorney General is required to adopt and promulgate rules for the management of the Address Confidentiality Program. These rules set forth the requirements which are necessary to meet the responsibilities of oversight, management, evaluation, improvement and participation in the program. The proposed amendments define duties performed by the Address Confidentiality Program Manager and ensure inclusion of federal and tribal agencies. Additional amendments include clarification of a designated agency at which potential program participants may apply in the program and correct a citation.

#### **AUTHORITY:**

Protection from Domestic Abuse Act Title 22 O.S. § 60.14

#### **COMMENT PERIOD:**

Persons wishing to make written comments may do so by 5:00 p.m., March 17, 2011, by sending to the Office of the Attorney General, Victims Services Unit, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105, or by facsimile at 405-557-1770 or emailing Susan.Krug@oag.ok.gov.

#### **PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Wednesday, March 23, 2011, at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period or public hearing on March 23, 2011, at the Office of the Attorney General at the above address.

#### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Office of the Attorney

General at the above address on and after publication of this Notice of Rulemaking Intent on February 15, 2011.

#### **CONTACT PERSON:**

Susan Damron Krug, Assistant Attorney General,  
405-522-0042

*[OAR Docket #11-66; filed 1-25-11]*

### **TITLE 75. ATTORNEY GENERAL CHAPTER 25. BATTERERS INTERVENTION PROGRAMS**

*[OAR Docket #11-67]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. General Provisions [AMENDED]  
Subchapter 3. Batterers Intervention [AMENDED]  
Subchapter 5. Personnel and Volunteers [AMENDED]

#### **SUMMARY:**

The Attorney General is required to adopt and promulgate rules and standards for certification of batterers intervention programs in this state. These rules set forth the requirements which are necessary to provide services pursuant to 74 O.S. § 18p-1 et seq. The proposed amendments expand the definition of a client record to include all communication and eliminate redundancies and inappropriate references that were not revoked when batterers intervention standards were moved from Chapter 15 to Chapter 25. Additional proposed changes clarify victim-centered safety planning with the batterer and set a deadline for completion of the plan, add accommodation for programs that keep electronic files as well as update training requirements for program facilitators. The requirements for written releases, victim notification and batterers assessments have been reorganized to reflect the order in which services are provided without substantive amendments. It was also clarified that an excused absence from a court-ordered batterers intervention program shall not include inability to pay.

#### **AUTHORITY:**

Attorney General, Title 74 O.S. § 18p-1 et seq.

#### **COMMENT PERIOD:**

Persons wishing to make written comments may do so by 5:00 p.m., March 17, 2011, by sending to the Office of the Attorney General, Victims Services Unit, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105, or by facsimile at 405-557-1770 or emailing Susan.Krug@oag.ok.gov.

#### **PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Wednesday, March 23, 2011, at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period or public hearing on March 23, 2011, at the Office of the Attorney General at the above address.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Office of the Attorney General at the above address on and after publication of this Notice of Rulemaking Intent on February 15, 2011.

**CONTACT PERSON:**

Susan Damron Krug, Assistant Attorney General, 405-522-0042

*[OAR Docket #11-67; filed 1-25-11]*

**TITLE 75. ATTORNEY GENERAL  
CHAPTER 30. STANDARDS AND CRITERIA  
FOR SEXUAL ASSAULT PROGRAMS FOR  
ADULT PROGRAMS FOR ADULT VICTIMS  
OF SEXUAL VIOLENCE AS A RESULT OF  
HUMAN TRAFFICKING**

*[OAR Docket #11-68]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 30. Standards and Criteria for Adult Victims of Sex Trafficking Programs [NEW]

**SUMMARY:**

This chapter sets forth the rules, including standards and criteria, used in certifying sexual assault programs and shelters for adult victims/survivors of sexual violence as a result of human trafficking pursuant to 74 O.S. § 18p-6. Although similarities exist between services provided to victims of domestic or sexual violence and victims of sex trafficking, there are also important differences between the two groups of victims. Victims of trafficking are often eligible for special benefits including housing, legal assistance and refugee services that differ from the types of services that are available to domestic violence or sexual violence victims. These standards serve as guidance in understanding, providing and advocating for the needs of victims of sex trafficking. The rules regarding factors relating to the process to determine status as a certified program including, but not necessarily limited

to, applications, fees, requirements for and administrative sanctions, are found in 75 OAC 1.

**AUTHORITY:**

Attorney General, Title 74 O.S. § 18p-1 et seq.

**COMMENT PERIOD:**

Persons wishing to make written comments may do so by 5:00 p.m., March 17, 2011, by sending to the Office of the Attorney General, Victims Services Unit, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105, or by facsimile at 405-557-1770 or emailing Susan.Krug@oag.ok.gov.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules. Each person will be allowed a maximum of 5 minutes to speak and must sign in on Wednesday, March 23, 2011, at 1:00 p.m., in the conference room of the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period or public hearing on March 23, 2011, at the Office of the Attorney General at the above address.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available in the Office of the Attorney General, 313 N.E. 21<sup>st</sup> St., Oklahoma City, OK.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available in the Office of the Attorney General at the above address on and after publication of this Notice of Rulemaking Intent on February 15, 2011.

**CONTACT PERSON:**

Susan Damron Krug, Assistant Attorney General, 405-522-0042

*[OAR Docket #11-68; filed 1-25-11]*

**TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION  
CHAPTER 1. GENERAL AGENCY RULES**

*[OAR Docket #11-52]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Meetings  
92:1-3-6 [REVOKED]

## Notices of Rulemaking Intent

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### SUMMARY:

The proposed rules revoke the requirement that meetings be conducted in accordance with Robert's Rules of Order.

### AUTHORITY:

3A O.S.Supp.2008, § 603; Oklahoma State Athletic Commission

### COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 23, 2011. Comments may be submitted to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The comment period is from February 15, 2011, to March 23, 2011.

### PUBLIC HEARING:

A public hearing has been scheduled for March 23, 2011, at the Oklahoma State Department of Health, 1000 NE 10<sup>th</sup> Street, Room 314, Oklahoma City, OK, at 1:30 p.m.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The Commission is not aware of any business entities affected by these proposed rules.

### COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Oklahoma State Athletic Commission. Copies may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 15, 2011. A copy of the rule impact statement may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

### CONTACT PERSONS:

Joe Miller, Administrator, Oklahoma State Athletic Commission (405) 271-2694; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

*[OAR Docket #11-52; filed 1-21-11]*

## TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

*[OAR Docket #11-53]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

92:10-1-1 [AMENDED]

92:10-1-2 [AMENDED]

92:10-1-3 [AMENDED]

92:10-1-4 [AMENDED]

92:10-1-5 [AMENDED]

92:10-1-6 [AMENDED]

92:10-1-7 [AMENDED]

92:10-1-8 [AMENDED]

92:10-1-9 [AMENDED]

92:10-1-10 [AMENDED]

### SUMMARY:

The proposed rules update definitions to reflect changes in the Commission's enabling act regarding amateur mixed martial arts and adds to the rules definitions of terms used in the enabling act. The proposed rules also eliminate the telecast promoter fee, clarify events for which sanctioning permits are required, clarify promoter responsibilities regarding medical benefit policies, clarify the conditions under which applicants are provided licenses following non-sanctioned events, clarify the issuance of complimentary tickets at events and otherwise contain clean-up language.

### AUTHORITY:

3A O.S.Supp.2008, § 603; Oklahoma State Athletic Commission

### COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the rules hearing on March 23, 2011. Comments may be submitted to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The comment period is from February 15, 2011, to March 23, 2011.

### PUBLIC HEARING:

A public hearing has been scheduled for March 23, 2011, at the Oklahoma State Department of Health, 1000 NE 10<sup>th</sup> Street, Room 314, Oklahoma City, OK, at 1:30 p.m.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The

Commission is not aware of any business entities affected by these proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule may be obtained from the Oklahoma State Athletic Commission. Copies may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 15, 2011. A copy of the rule impact statement may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

**CONTACT PERSONS:**

Joe Miller, Administrator, Oklahoma State Athletic Commission (405) 271-2694; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

*[OAR Docket #11-53; filed 1-21-11]*

**TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION  
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES**

*[OAR Docket #11-54]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Boxing and Kickboxing Participants
  - 92:10-3-3 [AMENDED]
  - 92:10-3-8 [AMENDED]
  - 92:10-3-12 [AMENDED]
- Subchapter 5. Professional Boxing and Kickboxing Events
  - 92:10-5-3 [AMENDED]
  - 92:10-5-4 [AMENDED]
  - 92:10-5-13 [AMENDED]
  - 92:10-5-14 [AMENDED]
- Subchapter 7. Elimination Tournaments
  - 92:10-7-4 [AMENDED]
- Subchapter 9. Professional Wrestling
  - 92:10-9-2 [AMENDED]
  - 92:10-9-3 [AMENDED]

**SUMMARY:**

The proposed rules modify grounds for license or permit suspension; authorize the Commission to grant variances in ring size; increase glove weight requirements for fighters who weigh between 147 and 154 pounds; adopt the World Anti-Doping Agency (WADA) list of banned substances;

allow three-minute rounds for female participants; modify application requirements for participants in elimination tournaments; specify the medical professionals who may perform physical examinations; and contain clean-up language.

**AUTHORITY:**

3A O.S.Supp.2008, § 603; Oklahoma State Athletic Commission

**COMMENT PERIOD:**

Written and oral comments will be accepted until the conclusion of the rules hearing on March 23, 2011. Comments may be submitted to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The comment period is from February 15, 2011, to March 23, 2011.

**PUBLIC HEARING:**

A public hearing has been scheduled for March 23, 2011, at the Oklahoma State Department of Health, 1000 NE 10<sup>th</sup> Street, Room 314, Oklahoma City, OK, at 1:30 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The Commission is not aware of any business entities affected by these proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule may be obtained from the Oklahoma State Athletic Commission. Copies may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 15, 2011. A copy of the rule impact statement may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

**CONTACT PERSONS:**

Joe Miller, Administrator, Oklahoma State Athletic Commission (405) 271-2694; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

*[OAR Docket #11-54; filed 1-21-11]*

## Notices of Rulemaking Intent

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### **TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES**

*[OAR Docket #11-55]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 11. Mixed Martial Arts

92:10-11-1 [AMENDED]

92:10-11-2 [AMENDED]

92:10-11-3 [AMENDED]

92:10-11-5 [REVOKED]

92:10-11-6 [REVOKED]

92:10-11-7 [AMENDED]

#### **SUMMARY:**

The proposed rules clarify boxing provisions applicable to mixed martial arts; adopt certain Association of Boxing Commissions (ABC) rules and guidelines; clarify provisions of the subchapter that apply to amateur mixed martial arts; provide requirements for fenced ring area and permit the Commission to grant variances in ring size; provide requirements for MMA participant applicants; and revoke redundant sections.

#### **AUTHORITY:**

3A O.S.Supp.2008, § 603; Oklahoma State Athletic Commission

#### **COMMENT PERIOD:**

Written and oral comments will be accepted until the conclusion of the rules hearing on March 23, 2011. Comments may be submitted to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The comment period is from February 15, 2011, to March 23, 2011.

#### **PUBLIC HEARING:**

A public hearing has been scheduled for March 23, 2011, at the Oklahoma State Department of Health, 1000 NE 10<sup>th</sup> Street, Room 314, Oklahoma City, OK, at 1:30 p.m.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299. The Commission is not aware of any business entities affected by these proposed rules.

#### **COPIES OF PROPOSED RULES:**

Copies of the proposed rule may be obtained from the Oklahoma State Athletic Commission. Copies may be obtained by written request mailed to the attention of Joe

Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after February 15, 2011. A copy of the rule impact statement may be obtained by written request mailed to the attention of Joe Miller, Oklahoma State Athletic Commission, 1000 NE 10<sup>th</sup> Street, Room 1213, Oklahoma City, OK 73117-1299.

#### **CONTACT PERSONS:**

Joe Miller, Administrator, Oklahoma State Athletic Commission (405) 271-2694; and Grant Moak, Assistant Attorney General, at (405) 522-0152.

*[OAR Docket #11-55; filed 1-21-11]*

### **TITLE 120. CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING COMMISSION CHAPTER 10. ZONING REGULATIONS FOR CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING DISTRICT**

*[OAR Docket #11-115]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Chapter 10. Zoning Regulations for Capitol-Medical Center Improvement and Zoning District [AMENDED]

#### **SUMMARY:**

Proposed revisions to the rules provide updated information, clarification and procedures related to District zoning regulations, including dumpsters and receptacles, special uses, reasonable accommodation permits and the Historic Preservation Board.

#### **AUTHORITY:**

Capitol-Medical Center Improvement and Zoning Commission, 73 O.S., Section 83.4

#### **COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so before 5:00 p.m. on Thursday, March 24, 2011, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218; or email gerry\_smedley@dcs.state.ok.us.

#### **PUBLIC HEARING:**

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 25, 2011, at 8:15 a.m. Anyone who wishes to speak must sign in by 8:05 a.m. on that day.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the Department with information,

including, if possible, direct and indirect costs by type with dollar amounts that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 25, 2011 at the Department of Central Services, Administration, P.O. Box 53218, Oklahoma City, OK 73152-3218.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules are available from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218 and the agency website at www.dcs.ok.gov.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 2, 2011 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

**CONTACT PERSON:**

Gerry Smedley, Administrative Rules Liaison (405) 522-8519

*[OAR Docket #11-115; filed 1-26-11]*

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

*[OAR Docket #11-63]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
  - 158:40-1-2. Definitions [AMENDED]
  - 158:40-1-3. License requirement [AMENDED]
  - 158:40-1-4. Standard of installation [AMENDED]
- Subchapter 3. Procedures of the Committee and the Hearing Board
  - 158:40-3-1. Procedures of the committee [AMENDED]
- Subchapter 5.. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements
  - 158:40-5-1. Apprentice requirements [AMENDED]
- Subchapter 7. License Classifications
  - 158:40-7-1. Unlimited electrical license [AMENDED]
  - 158:40-7-2. Residential electrical license [AMENDED]
  - 158:40-7-3. Electrical inspectors [REVOKED]
- Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
  - 158:40-9-3. License and registration fees and renewals [AMENDED]
  - 158:40-9-4. Continuing education. [AMENDED]

**SUMMARY:**

158:40-1-2 define and/or modify the definitions of "Apprentice", "Contractor" "Direct Supervision", "Inactive Contractor", "Limited Contractor", "Military electrical

installation experience", "Refinery Electrical Journeyman", "Residential contractor", "Residential journeyman" and "Temporary Journeyman" and strikes "National Electrical Code", for purposes of regulatory compliance and/or regulatory clarification. 158:40-1-1 has been modified to require supervisors of work to be licensed in the appropriate category of the work they are supervising. 158:40-1-4 conforms the standard of the installation for electrical work to the requirements of the Oklahoma Uniform Building Code Commission Act, 59 O.S. §§ 1000.20 - 1000.29. 158:40-3-1 clarifies the working relationship and responsibilities between the Construction Industries Board and the Committee of Electrical Examiners. 158:40-3-2 clarifies the procedures of the Electrical Hearing Board and the appropriate standard of installation. 158:40-5-1 requires licensees supervising apprentices to be licensed in the appropriate category of the work they are supervising. 158:40-7-1 amends and revises the appropriate standards for qualification for licensure for an unlimited electrical license. 158:40-7-2 amends and revises the appropriate standards for qualification for licensure for a residential electrical license. 158:40-7-3 is stricken due to the existence of the Oklahoma Inspectors Act, 59 O.S. §§ 1031 - 1045. 158:40-9-1 clarifies the requirements of registering and documenting apprentice experience in the State of Oklahoma and other states and prohibits the renewal of a license after the expiration of one year. 158:40-9-4 amends the appropriate topics for approved continuing education units and clarifies that the responsibility of providing a code book for an approved continuing education course is that of the course attendee and not the instructor or course provider.

**AUTHORITY:**

Construction Industries Board; 59 O.S. § 1680 through §1697 et seq.

**COMMENT PERIOD:**

Written and oral comments will be accepted between February 15, 2011 and March 17, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

**PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on March 21, 2011, at a special meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business

## Notices of Rulemaking Intent

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entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 17, 2011.

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, on February 15, 2011

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 15, 2011 and may be obtained from the Construction Industries Board at the above address.

### CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #11-63; filed 1-24-11]*

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### TITLE 170. DEPARTMENT OF CORRECTIONS CHAPTER 15. PRIVATE PRISON CONTRACTOR COMPLIANCE MONITORING

*[OAR Docket #11-91]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

### PROPOSED RULES:

Subchapter 1. General Provisions

170:15-1-2. [AMENDED]

170:15-1-3. [AMENDED]

Subchapter 3. Monitoring Process

170:15-3-1 [AMENDED]

170:15-3-2 [AMENDED]

170:15-3-3 [AMENDED]

170:15-3-4. [AMENDED]

170:15-3-4.1. [AMENDED]

170:15-3-5. [AMENDED]

Subchapter 5. Appeal of Audits

170:15-5-1 [AMENDED]

Subchapter 7. Costs

170:15-7-1 [AMENDED]

170:15-7-4 [AMENDED]

Subchapter 9. Private Prison Custody

170:15-9-1 [AMENDED]

170:15-9-2 [AMENDED]

170:15-9-3 [AMENDED]

Subchapter 11. Private Prison Contract Application

170:15-11-1. [AMENDED]

170:15-11-2. [AMENDED]

Subchapter 13. Private Prison Emergency Plans

170:15-13-2. [AMENDED]

Subchapter 15. Indemnification and Insurance

170:15-15-1. [AMENDED]

### SUMMARY:

These proposed rule changes have been developed to better reflect the current processes in place for private

prison oversight and contract monitoring as practiced by the Oklahoma Department of Corrections, as well as to become compliant with legislation enacted in 2009. The proposed changes also update language that more accurately reflect the processes in place for oversight of the private prisons.

### AUTHORITY:

Oklahoma Department of Corrections (57 O.S. §§ 563, 563.1-563.3)

### COMMENT PERIOD:

Interested persons may present their views orally or in writing to the Administrator of Private Prisons, 3400 Martin Luther King Avenue, Oklahoma City, Oklahoma, 73136, until March 17, 2011.

### PUBLIC HEARING:

Public hearing will be conducted at the Department of Corrections Administrative Offices, General Counsel's conference room, at 3400 Martin Luther King Avenue at 1:30 o'clock p.m. on the 21st of March, 2011.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Renee Watkins at the above address during the period from February 15, 2011 to March 17, 2011.

### COPIES OF PROPOSED RULES:

Copies of the proposed revised rules may be obtained at Private Prison Administration, 3400 Martin Luther King Avenue, Oklahoma City, Oklahoma, 73136.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review after February 15, 2011. Copies may be obtained at the Private Prison Administration offices at the above address.

### CONTACT PERSON:

Renee Watkins, Administrator, Private Prison Administration, (405) 425-7123.

*[OAR Docket #11-91; filed 1-26-11]*

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### TITLE 170. DEPARTMENT OF CORRECTIONS CHAPTER 40. COMMUNITY-BASED DIVERSION AND REENTRY PROGRAMS

*[OAR Docket #11-90]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

### PROPOSED RULES:

Chapter 40. Community-Based Diversion and Reentry Programs [NEW]

**SUMMARY:**

In accordance with House Bill 2998 as signed by the Governor on May 24, 2010, and effective November 1, 2010, the proposed rules will establish guidelines to implement diversion and reentry programs for non-violent offenders who are also the primary care-giver of minor children. These programs shall be funded through private donations and state funds.

**AUTHORITY:**

Oklahoma Department of Corrections; 57 O.S. § 510.8b

**COMMENT PERIOD:**

Interested persons may present their views orally or in writing to the Deputy Director, Female Offender Operations, 2901 N. Classen Blvd., Suite 200, Oklahoma City, Oklahoma, 73106, until March 17, 2011.

**PUBLIC HEARING:**

Public hearing will be conducted at the Department of Corrections Administrative Offices, General Counsel's conference room, at 3400 Martin Luther King Avenue at 10:00 o'clock a.m. on the 21st of March, 2011.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the Deputy Director, Female Offender Operations, 2901 N. Classen Blvd., Suite 200, Oklahoma City, Oklahoma, 73106.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review after February 15, 2011. Copies may be obtained at the Division of Female Offender Operations at the above address.

**CONTACT PERSON:**

Dr. Laura Pitman, Deputy Director of Female Offender Operations, (405) 962-6182.

*[OAR Docket #11-90; filed 1-26-11]*

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 15. CURRICULUM AND INSTRUCTION**

*[OAR Docket #11-89]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Priority Academic Student Skills
- Part 3. Pre-Kindergarten and Kindergarten
- 210:15-3-5.6. Science [AMENDED]
- Part 9. Science
- 210:15-3-70. Overview organization [AMENDED]
- 210:15-3-70.1. Science standards for grades 1 through 12 [AMENDED]
- 210:15-3-70.2. Definitions [AMENDED]

- 210:15-3-72. Standards for inquiry, physical, life, and earth/space science for grade 2 [AMENDED]
- 210:15-3-73. Standards for inquiry, physical, life, and earth/space science for grade 3 [AMENDED]
- 210:15-3-74. Standards for inquiry, physical, life, and earth/space science for grade 4 [AMENDED]
- 210:15-3-75. Standards for inquiry, physical, life, and earth/space science for grade 5 [AMENDED]
- 210:15-3-76. Standards for inquiry, physical, life, and earth/space science for grade 6 [AMENDED]
- 210:15-3-77. Standards for inquiry, physical, life, and earth/space science for grade 7 [AMENDED]
- 210:15-3-78. Standards for inquiry, physical, life, and earth/space science for grade 8 [AMENDED]
- 210:15-3-79. Physical science - standards for inquiry and the physical sciences (including earth/space science) for high school [AMENDED]
- 210:15-3-80. Biology I - standards for inquiry and the biological sciences for high school [AMENDED]
- 210:15-3-81. Chemistry - standards for inquiry and chemistry for high school [AMENDED]
- 210:15-3-82. Physics - standards for inquiry and physics for high school [AMENDED]
- 210:15-3-83. Environmental Science - standards for inquiry and environmental science for high school [NEW]

**SUMMARY:**

The proposed rule amendments will provide greater science concept rigor, increase alignment to national documents, and incorporate a new technology and engineering skills.

**AUTHORITY:**

70 O.S. § 3-104, State Board of Education

**COMMENT PERIOD:**

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 23, 2011, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

**PUBLIC HEARING:**

A public hearing will be held at 9:30 a.m. on Thursday, March 24, 2011, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building,

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2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 25, 2011.

**CONTACT PERSON:**

Connie Holland, 405-521-3308

*[OAR Docket #11-89; filed 1-26-11]*

**TITLE 260. OFFICE OF STATE FINANCE  
CHAPTER 15. ACCESSIBILITY OF  
INFORMATION TECHNOLOGY**

*[OAR Docket #11-116]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 15. Accessibility of Information Technology  
[AMENDED]

**SUMMARY:**

Proposed rule revisions provide clarification and updated information related to electronic information technology acquired or developed by state agencies to ensure accessibility for individuals with disabilities.

**AUTHORITY:**

Office of State Finance, 62 O.S. §34.28

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Thursday, March 17, 2011, at the following address: Joe Fleckinger, Office of State Finance, 3115 N. Lincoln Blvd., Oklahoma City, OK 73105.

**PUBLIC HEARING:**

A public hearing will be held at the Office of State Finance, Information Services Division, 3115 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 18, 2011 at 1:00 p.m. Anyone who wishes to speak must sign in by 12:50 p.m. on that day.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the Department with information, including, if possible, direct and indirect costs by type with dollar amounts that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 18, 2011, at the Office of State Finance, Information Services Division, 3115 N. Lincoln Blvd., Oklahoma City, OK 73105

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 2, 2011 at the Office of State Finance, Information Services Division, 3115 N. Lincoln Blvd., Oklahoma City, OK 73105.

**CONTACT PERSON:**

Joe Fleckinger, Director, Information Services Division, (405) 522-4026

*[OAR Docket #11-116; filed 1-26-11]*

**TITLE 325. OKLAHOMA HORSE RACING  
COMMISSION  
CHAPTER 75. OKLAHOMA-BRED  
PROGRAM**

*[OAR Docket #11-62]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

**PROPOSED RULE:**

325:75-1-3. Definition of accredited Oklahoma-Bred Thoroughbred [AMENDED]

325:75-1-3.1. Definition of accredited Oklahoma-Bred Quarter Horse, Paint or Appaloosa [AMENDED]

**SUMMARY:**

The Oklahoma Quarter Horse Racing Association (OQHRA), the horsemen's organization that represents Quarter Horses, Paints and Appaloosas, requested that the Commission consider amending the broodmare re-accreditation section of this rule to add a requirement that consecutive year re-accreditations **not** be approved without a valid transfer of ownership of the horse between individuals not related by blood or marriage or that share the same physical address. Without the valid transfer of ownership, a broodmare re-accredited in consecutive years would not be eligible to produce accredited foals born in the second or subsequent consecutive year of back to back re-accreditations. The addition of the valid transfer of ownership requirement would address a practice of some horsemen of using the current re-accreditation provisions to circumvent the domicile requirements of the rule.

Specifically, the OQHRA supports the process by which, once a broodmare has terminated her domicile in Oklahoma from the original enrollment in the Oklahoma-Bred Program, the broodmare can be re-accredited the first time she returns to resume her domicile in Oklahoma and the foal being carried would be eligible for the Oklahoma-Bred Program. The intent of the proposed amendments would address subsequent re-accreditations for the same broodmare in consecutive years by which the impending foal would be eligible for the Oklahoma-Bred Program **if** the conditions of transfer are met. In addition, the foal's eligibility would also require adherence to the breed back rule by which an accredited broodmare's foal would be eligible for the Oklahoma-Bred Program if every other foal in the Oklahoma-Bred Program is sired by an accredited Oklahoma-Bred stallion. The OQHRA is not trying to restrict the number of times in her lifetime a broodmare could apply for and be re-accredited; rather, the focus is to enforce the domicile requirement for broodmares so that, when the domicile condition has NOT been met, the resulting foals

would NOT be eligible for accreditation UNLESS there is a valid transfer of ownership that resulted in the broodmare leaving the State of Oklahoma.

The Oklahoma Thoroughbred Association, the horsemen's organization that represents Thoroughbred breeders, advised the Commission that it similarly requested that its companion rule for Thoroughbreds be amended for the same reasons as the OQHRA.

In addition, Commission Staff recommends that the Commission consider proposed editorial changes to (1) make the regulatory language in the broodmare re-accreditation section of Rule 325:75-1-3 mirror that of Rule 325:75-1-3.1 and (2) consider a proposed editorial change to correct the term 'OK-Bred' shown in the same broodmare re-accreditation section to read 'Oklahoma-Bred' in both rules.

**AUTHORITY:**

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

**COMMENT PERIOD:**

Persons wishing to present their views in writing may do so before 4:30 p.m., Friday, March 18, 2011, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**PUBLIC HEARING:**

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Friday, March 18, 2011, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Oklahoma Horse Racing Commission requests that business entities affected by these proposed rule amendments provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule amendments. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on March 18, 2011.

**COPIES OF PROPOSED RULE AMENDMENTS:**

A copy of the proposed rule amendments may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by February 15, 2011 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

**CONTACT PERSON:**

Bonnie Morris, Agency Rulemaking Liaison, (405) 943-6472.

*[OAR Docket #11-62; filed 1-24-11]*

**TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

*[OAR Docket #11-78]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Office of Client Advocacy  
Part 3. Investigations  
340:2-3-32 through 340:2-3-38 [AMENDED]  
(Reference APA WF 11-01)

**SUMMARY:**

The proposed revision to Subchapter 3 to Chapter 2 amends the investigative rules to: (1) reflect the recodification of the Oklahoma Children's Code enacted by the Legislature in 2009 and 2010; (2) include the clarification of the disposition options when a referral received by the Office of Client Advocacy (OCA) consists of a request for special advocacy services; (3) include references to the notice requirements to the alleged victim, guardian, or next of kin of a vulnerable adult or to a person responsible for the health, safety, or welfare of a child as required by statute; (4) address court-ordered access to records, treatment plans, and other documentation, or to the place where a child is located; (5) address the dissemination of investigative reports involving confirmed findings against a caretaker of a child subject to the Child Care Restricted Registry; (6) provide for notice to the state agency, division, or regulatory entity that contracts with a facility or provider that fails to submit a caretaker conduct review report within 45 days; (7) add clarifying language; and (8) update language to current terminology.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Section 10-102 et seq. of Title 43A of the Oklahoma Statutes; and Section 1-1-101 et seq. of Title 10A of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments will be accepted February 15, 2011 through March 17, 2011 during regular business hours by contacting Mark Lawton Jones, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-525-4850.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 17, 2011 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed person.

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### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

### **CONTACT PERSON:**

Dena Thayer, Programs Administrator, 405-521-4326.

*[OAR Docket #11-78; filed 1-26-11]*

### **TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS**

*[OAR Docket #11-79]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 7. Office of Inspector General

Part 1. Responsibilities and Functions

340:2-7-1 through 340:2-7-2 [AMENDED]

340:2-7-4.1 through 340:2-7-5 [REVOKED]

340:2-7-9 [AMENDED]

Part 2. ~~Guidelines for the Possession and Use of Firearms~~  
Force

340:2-7-14 through 340:2-7-16 [REVOKED]

340:2-7-17 [AMENDED]

**(Reference APA WF 11-02)**

### **SUMMARY:**

The proposed revisions to Subchapter 7 of Chapter 2 align rules with current practices of the Office of Inspector General (OIG). Proposed amendments: (1) add language regarding certification requirements for commissioned agents who carry firearms; (2) remove unnecessary and outdated language; (3) correct a legal citation; (4) add definitions; (5) add clarifying language; and (6) revoke Sections that are internal procedures or are obsolete.

### **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Section 162.4 of Title 56 of the Oklahoma Statutes.

### **COMMENT PERIOD:**

Written and oral comments will be accepted February 15, 2011 through March 17, 2011 during regular business hours by contacting Molly Green, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-0541.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 17, 2011 at 5:00 p.m.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed person.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

### **CONTACT PERSON:**

Dena Thayer, Programs Administrator, 405-521-4326.

*[OAR Docket #11-79; filed 1-26-11]*

### **TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES**

*[OAR Docket #11-88]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-4 through 340:110-1-5 [AMENDED]

340:110-1-8 [AMENDED]

340:110-1-9 through 340:110-1-9.3 [AMENDED]

340:110-1-10 through OAC 340:110-1-10.1 [AMENDED]

340:110-1-13 through OAC 340:110-1-14 [AMENDED]

340:110-1-20 [AMENDED]

Part 3. Licensing Services - Residential Care and Agencies

340:110-1-43 through 110-1-43.1 [AMENDED]

340:110-1-44 through 340:110-1-47.2 [AMENDED]

340:110-1-54.1 through OAC 340:110-1-55 [AMENDED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 1. Requirements for Child Care Centers

340:110-3-2 [AMENDED]

Part 2. Requirement for Part-Day Children's Programs

340:110-3-36 through 340:110-3-37 [AMENDED]

Part 5. Requirements for Family Child Care Homes and  
Large Family Child Care Homes

340:110-3-81 [AMENDED]

Part 9. Requirements for Residential Child Care Facilities

340:110-3-146 [AMENDED]

Part 14. Requirements For School-Age Programs

340:110-3-221 through 340:110-3-222 [AMENDED]

Subchapter 5. Requirements for Child-Placing Agencies

Part 1. Requirements for Child-Placing Agencies

340:110-5-3 [AMENDED]

340:110-5-8 [AMENDED]

**(Reference APA WFs 10-07 and 10-14)**

**SUMMARY:**

The proposed revisions to Subchapters 1,3, and 5 of Chapter 110 amend the rules to: (1) clarify division policy and practice; (2) assist with the consistent enforcement of licensing requirements; (3) increase quality criteria for facilities participating in the differential quality rating system; (4) reflect changes due to a negotiated lawsuit settlement.

**AUTHORITY:**

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Child Care Facility Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments are accepted February 15, 2011 through March 17, 2011, during regular business hours by contacting Mitzi Lee, Oklahoma Department of Human Services, Oklahoma Child Care Services, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4489.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by the above listed person, no later than 5:00 p.m., March 17, 2011.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed person no later than March 17, 2011 at 5:00 p.m.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

**CONTACT PERSON:**

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, 405-521-4326.

*[OAR Docket #11-88; filed 1-26-11]*

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 1. ADMINISTRATIVE  
OPERATIONS**

*[OAR Docket #11-80]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

365:1-1-2. Office of the Insurance Commissioner [AMENDED]

Subchapter 9. Description of Forms and Instructions

365:1-9-11. Applications [AMENDED]

365:1-9-13. Suggested language for ~~agents~~ producers bonds [AMENDED]

365:1-9-14. Producer and adjuster continuing education forms [REVOKED]

365:1-9-15.1. License renewals and reinstatements [AMENDED]

365:1-9-16. ~~Agents~~ license Producer licensing forms [AMENDED]

**SUMMARY:**

The amendment to 365:1-1-2 updates the general description of the principal operating units of the office of Insurance Commissioner. The amendment to 365:1-9-11 updates the type of applications needed to be completed by applicants for certain licenses to be granted by the Insurance Department. The amendments to 365:1-9-13 and 365:1-9-16 strike the word "agent" in the title and throughout the sections and replaces it with the word "producer" as this is the term of art used to denote a person who sells insurance to a consumer. The amendment to 365:1-9-14 removes the requirement that a course provider must submit a course evaluation form to the Insurance Commissioner. The amendment to 365:1-9-15.1 removes the language for a renewal period and submission and changes the license reinstatement period from a ninety-day period to a period of within one year after the expiration date. It also states that a reinstatement fee shall be double the license fee.

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1 and 1435.29.

**COMMENT PERIOD:**

Written or oral comments regarding the proposed rule amendment shall be received on or before March 18, 2011. Comments shall be directed to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

**PUBLIC HEARING:**

A public hearing regarding the proposed rule amendment will be held March 18, 2011, at 9:30 a.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared prior to February 15, 2011, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

# Notices of Rulemaking Intent

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## CONTACT PERSON:

Julie Meaders, Assistant General Counsel, (405) 521-2746.

[OAR Docket #11-80; filed 1-26-11]

## TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

[OAR Docket #11-81]

## INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

365:10-1-6. Oklahoma Life and Health Insurance  
Guaranty Association ~~disclaimer~~ notice requirements  
[AMENDED]

365:10-1-13. Notification required upon rejection  
[AMENDED]

365:10-1-15 Eliminating unfair discrimination on basis of  
children as single applicants [NEW]

Subchapter 5. Minimum Standards; Contract Guidelines

Part 1. Minimum Standards and Benefits for Accident and  
Health Insurance

365:10-5-4. Prohibited policy provisions [AMENDED]

Part 13. Medicare Supplement Insurance Minimum  
Standards

365:10-5-128.2. Standard Medicare supplement benefit  
plans for 2010 standardized Medicare supplement  
benefit plan policies or certificates issued for delivery on  
or after June 1, 2010 [AMENDED]

365:10-5-134. Required disclosure provisions  
[AMENDED]

Appendix S. Outline of Coverage [REVOKED]

## SUMMARY:

The amendment to 365:10-1-6 updates language for the notice requirements for coverage or non-coverage by the Oklahoma Life and Health Insurance Guaranty Association Act as a result of the enactment of changes to the Oklahoma Life and Health Insurance Guaranty Association Act in Senate Bill 2043. The amendment to 365:10-1-13 provides updated contact information for the Oklahoma Health Insurance High Risk Pool and Oklahoma Temporary High Risk Pool which must be contained in a notice of rejection of health insurance coverage. New Section 365:10-1-15 requires insurers issuing individual accident and health policies within the state to have an open enrollment period for children under the age of 19. The section requires insurers to offer an open enrollment period from July 15, 2011 through August 15, 2011 for the year 2011 and for every year thereafter, an open enrollment period twice a year for the entire months of January and July. Insurers must issue the child only policy on a guaranteed issue

basis. Insurers may be subject to an administrative hearing and penalty for violating the section.

The amendment to 365:10-5-4 adds limited benefit insurance policies to the provision regarding policy limits and exclusions to further clarify to which types of policies the paragraph applies. The amendment to 365:10-5-128.2 removes the 150 days hospitalization requirement and replaces it with the hospitalization after the lifetime reserves days are exhausted. The amendment to 365:10-5-134 removes references to Appendix S and replaces it with language referring to the most recent edition of the NAIC Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. This eliminates confusion as to which outline of coverage insurers shall use when dealing with Medicare Supplement Benefit Plans. Appendix S is revoked because it is not the current outline of coverage required by the NAIC to be utilized by insurers. Additionally, amendments to 365:10-5-134 encompass the needed reference to the most recent outline of coverage as promulgated by the NAIC.

## AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1204, 2043, 3611, 4403, 4403.1 and 6101.

## COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before March 18, 2011. Comments shall be directed to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

## PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held March 18, 2011, at 9:30 a.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

## REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2011.

## COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

## RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to February 15, 2011, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

**CONTACT PERSON:**

Julie Meaders, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #11-81; filed 1-26-11]*

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 15. PROPERTY AND CASUALTY**

*[OAR Docket #11-82]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

365:15-1-3. Property and casualty form filings  
[AMENDED]

Subchapter 3. Claims Resolution and Unfair Claim  
Settlement Practices

365:15-3-5. Failure to acknowledge pertinent  
communications [AMENDED]

Subchapter 7. Property and Casualty Competitive Loss  
Cost Rating Regulation

365:15-7-17. Suspension or modification of filing  
requirements [REVOKED]

365:15-7-32. Use of "a" rates [AMENDED]

**SUMMARY:**

The amendment to 365:15-1-3 adds that policies must provide for extended reporting period options based on rating plans filed with the Insurance Commissioner, in addition to the existing requirement of those approved by the Commissioner, since companies' rates are filed and advisory organizations' loss costs are approved. The amendment to 365:15-3-5 provides consistency with the statutory counterpart in allowing insurers to respond to inquiries within 30 days. Section 365:15-7-17 is being revoked because it is no longer needed since 36 O.S. § 903 has been repealed. The amendment to 365:15-7-32 removes "a" rate exemption language and replaces it with the requirement that companies justify the use of an "a" rating.

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1, 907, 986, and 1250.16.

**COMMENT PERIOD:**

Written or oral comments regarding the proposed rule amendment shall be received on or before March 18, 2011. Comments shall be directed to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

**PUBLIC HEARING:**

A public hearing regarding the proposed rule amendment will be held March 18, 2011, at 9:30 a.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared prior to February 15, 2011, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

**CONTACT PERSON:**

Julie Meaders, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #11-82; filed 1-26-11]*

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 25. LICENSURE OF  
PRODUCERS, ADJUSTERS, BAIL  
BONDSMEN, COMPANIES, PREPAID  
FUNERAL BENEFITS, CEMETERY  
MERCHANDISE TRUSTS, AND VIATICAL  
SETTLEMENTS PROVIDERS AND  
BROKERS**

*[OAR Docket #11-83]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Producers, Brokers, ~~Limited~~-~~limited~~ Lines  
Producers and Vehicle Protection Product Warrantors

365:25-3-1. Insurance producers continuing education  
[AMENDED]

365:25-3-1.1. Application for resident producer license  
[REVOKED]

365:25-3-1.2. Provisional producer license [REVOKED]

365:25-3-1.3. Approved insurance company training  
program [REVOKED]

365:25-3-14. Insurance adjusters continuing education  
[AMENDED]

365:25-3-15. Variable ~~annuity~~ product licensing  
[AMENDED]

365:25-3-16. Examination exemptions [AMENDED]

365:25-3-17. Agriculture revenue insurance license  
[REVOKED]

365:25-3-18. Compensation and education for sale of  
Medicare Advantage (including private fee for service

## Notices of Rulemaking Intent

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plans) or Medicare prescription drug products and plans [AMENDED]

365:25-3-20.1. Prior approval of vehicle protection product contract forms [NEW]

365:25-3-20.2. Cancellation language for vehicle protection product contract forms [NEW]

365:25-3-20.3. Disapproval of any vehicle protection product contract form [NEW]

Subchapter 5. Bail Bondsmen

Part 1. Continuing Education for Bail Bondsmen

365:25-5-3. Education requirements [AMENDED]

Part 5. General Provisions Pertaining to Bail Bondsmen

365:25-5-35. Bondsman license renewal [AMENDED]

365:25-5-41. Special deposit [AMENDED]

365:25-5-45. Fines and costs due to Commissioner [NEW]

365:25-5-46. Notification of use of business name [NEW]

Subchapter 23. Cemetery Merchandise Trusts [NEW]

365:25-23-1. Purpose [NEW]

365:25-23-2. Permit required [NEW]

365:25-23-3. Contract approval [NEW]

365:25-23-4. Forms [NEW]

365:25-23-5. Trust fund and trustee [NEW]

365:25-23-6. Surety bond [NEW]

365:25-23-7. Reports to trustee [NEW]

365:25-23-8. Annual report [NEW]

365:25-23-9. Notice of sale [NEW]

Appendix T. Insurance Company Training Program Affidavit [REVOKED]

### SUMMARY:

The amendments to sections 365:25-3-1 and 365:25-3-14 change the references to continuing education credit to continuing education. The amendments also add a provision for a reinstatement period for providers of continuing education and exempt nonprofit and not-for-profit organizations from payment of the required provider fee, but do require nonprofit and not-for-profit organizations to submit certain information. The amendments to 365:25-3-1 provide consistency with current terms of art and exempts nonprofit organizations from payment of a continuing education provider fee. The amendment provides a reinstatement period for education providers and allows the Commissioner to take administrative action against a provider that offers a course that has been denied. Sections 365:25-3-1.1 through 365:25-3-1.3 are being revoked to promote uniformity and reciprocity with other states. The amendments to section 365:25-3-14 require adjusters adjusting workers' compensation claims in Oklahoma to complete six (6) hours of continuing education relating to the Oklahoma Workers' Compensation Act. The six hours are part of the twenty-four (24) clock hours of continuing education as set forth in 36 O.S. § 6217(D). Additionally, insurers are required to verify compliance by submission of certain documentation to the Insurance Department. Section 365:25-3-15 places requirements on producers selling variable life products in addition to variable annuities. The amendment to 365:25-3-16 removes the requirement that

a person provide a clearance letter from a prior state when applying to become a resident producer in this state. It also provides an examination exemption for adjusters who obtain a multi peril crop license if the person presents the proper federal certification. Section 365:25-3-17 is revoked because the agriculture revenue insurance license is a limited lines license that no longer exists. Section 365:25-3-18 is amended to remove the one-time training requirement as this standard is no longer used. New sections 365:25-3-20.1 through 365:25-3-20.3 provide authority for the Commissioner to approve contract forms and cancellation provision standards.

The amendment to 365:25-5-3 requires an applicant for a bondsman's license to complete prelicensing education as required by 59 O.S. § 1308.1(A). Section 365:25-5-35 changes the bail bondsman's license renewal to every two years and provides for payment of the required fee and any late fee every two years. The section also changes the expiration of the bondsman's license to the last day of the bondsman's birth month. Section 365:25-5-41 requires the insurer's monthly report to be within five percent of the outstanding liability reported by bondsmen appointed by each insurer and if the insurer writes at a 20:1 ratio and fails to comply with the requirements of the section, the special deposit shall equal at least a 10:1 ratio to provide for better transparency and a more stable liability to deposit ratio. New sections 365:25-5-45 and 365:25-5-46 requires fines and costs assessed against bondsmen to be paid within 30 days of the date of the order and requires notification by the bondsman if the bondsman uses a name other than the legal name of the bondsman. The new Subchapter 23 creates rules for the implementation and regulation of the Cemetery Merchandise Trust Act. New section 365:25-23-1 sets forth the purpose of the subchapter. New section 365:25-23-2 requires any organization accepting money or anything of value for prepaid cemetery merchandise to obtain a permit from the Insurance Department. The rule sets forth reasons that the permit may be denied. New section 365:25-23-3 requires approval by the Insurance Department of contracts used in the sales of cemetery merchandise. New section 365:25-23-4 sets forth the required forms necessary for the Insurance Department to administer and regulate the Cemetery Merchandise Trust Act. New section 365:25-23-5 requires permit holders to inform the Insurance Department of the identity of the trustee if the funds are held in trust. New section 365:25-23-6 sets forth requirements for permit holders posting surety bonds. New section 365:25-23-7 provides the requirements for the report that must be submitted by each permit holder if the permit holder chooses to provide a summary of the relevant information contained in each contract. New section 365:25-23-8 requires each permit holder to file an annual report with the Insurance Department. The rule lists the information required to be submitted. New section 365:25-23-9 provides requirements that must be submitted to the Insurance Department when there is a sale or transfer of ownership. Appendix T is revoked because it is no longer used by the Insurance Department.

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29, 6217, 6660, 7124; 59 O.S. §§ 1302 and 1308.1.

**COMMENT PERIOD:**

Written or oral comments regarding the proposed rule amendment shall be received on or before March 18, 2011. Comments shall be directed to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

**PUBLIC HEARING:**

A public hearing regarding the proposed rule amendment will be held March 18, 2011, at 9:30 a.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56<sup>th</sup> St., Suite 100, Oklahoma City, Oklahoma 73112.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Julie Meaders, Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared prior to February 15, 2011, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

**CONTACT PERSON:**

Julie Meaders, Assistant General Counsel, (405) 521-2746.

*[OAR Docket #11-83; filed 1-26-11]*

**TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD  
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION**

*[OAR Docket #11-87]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

**PROPOSED RULES:**

420:10-1-5. Permits [AMENDED]

420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]

**SUMMARY:**

The proposed amendments to 420:10-1-5 establish a minimum requirement of five year's work experience as a Class X Manager, or equivalent, along with forty hours of specified training prior to a person testing for a Class I

Dealer Permit. Establishes specific endorsements that a Class IV Installer Permit must test for based on their services provided. Also clarifies language that the supervision of a Class IV applicant must be provided by a person licensed by Oklahoma Construction Industries with a Mechanical License. Establishes a fee of \$10.00 for each additional endorsement as authorized by the Administrator. Other revisions include striking language that would require an applicant to test for a Class VII Cylinder Exchange Program Permit. Class VII permits will be issued based on location rather than to a specific person who passed a written examination. Establishes a minimum requirement of three year's work experience under an active Class X Manager, or equivalent, prior to a person testing for a Class X Manager's Permit. Allows for one of the three year's work experience to be satisfied by forty hours of specified training. Adds language that gives the agency jurisdiction to inspect all LP Gas trucks, trailers and cargo tanks.

The proposed amendments to 420:10-1-14 establish that the required minimum propane storage must be maintained and operational, approved by the authority having jurisdiction, and within a fifty mile radius of the Class I permit holders corporate office or branch location. This revision provides for deficiencies in the current rules that allow a Class I permit holder to provide the bulk propane storage, but not have it maintained and/or operational or within a reasonable distance from their customers. Also provides for any exceptions to the minimum storage requirement to be granted by the Board. Establishes and clarifies that the LP Gas truck, trailer and cargo tank registration decal and inspection form reflect that the agency has jurisdiction and authorized the use of any LP Gas truck, trailer and cargo tanks. Establishes that the Class VII permit holder is responsible for training all employees who exchange cylinders and maintaining documentation of training at the Class VII location. Lastly, the Class I permit holder who is supplying the exchange cylinders is responsible for providing the training material.

**AUTHORITY:**

Oklahoma Liquefied Petroleum Gas Board; Pursuant to Statute 420.3. Oklahoma Liquefied Petroleum Gas Board - Rules, regulations and specifications. Subsection (G)(H)

**COMMENT PERIOD:**

Persons may present their views, in written form, to the Oklahoma Liquefied Petroleum Gas Administration, Jim Thorpe Building, 2101 N. Lincoln Blvd., Suite B-45, Oklahoma City, OK 73105-4990. Comments will be accepted during the period from February 15, 2011 to March 18, 2011.

**PUBLIC HEARING:**

A Public Hearing is scheduled for 10:00 a.m., Monday, March 21, 2011, in the Jim Thorpe Building, 2101 N. Lincoln Blvd., Suite B-45, Oklahoma City, Oklahoma. Interested persons may orally present their views at this time.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollars

## Notices of Rulemaking Intent

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amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Mr. Bill Glass at the above address during the period from February 15, 2011 to March 18, 2011.

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by calling the Oklahoma Liquefied Petroleum Gas Administration at 405-521-2458. A \$5.00 charge will be assessed to offset copying charges and the cost of postage.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review beginning February 15, 2011, at the above address for the Oklahoma Liquefied Petroleum Gas Administration.

### CONTACT PERSON:

For information regarding the proposed rulemaking, contact Mr. Bill Glass, Administrator, at 405-521-2458.

*[OAR Docket #11-87; filed 1-26-11]*

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### TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #11-69]*

#### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

#### PROPOSED RULES:

Subchapter 1. General Provisions  
550:1-1-8 [NEW]

#### SUMMARY:

The proposed new rule OAC 550:1-1-8 clarifies an effective date for municipality membership to the system.

#### AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

#### COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 21<sup>st</sup>, 2011, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

#### PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, March 23<sup>rd</sup>, 2011, in the Board Room of the Oklahoma Police

Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 17<sup>th</sup>, 2011.

### CONTACT PERSON:

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

*[OAR Docket #11-69; filed 1-25-11]*

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### TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #11-70]*

#### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

#### PROPOSED RULES:

Subchapter 5. Petition Procedures  
550:1-5-7 [NEW]

#### SUMMARY:

The proposed new rule OAC 550:1-5-7 sets forth guidelines for establishing a common law marriage.

#### AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

#### COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., March 21<sup>st</sup>, 2011, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

#### PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, March 23<sup>rd</sup>, 2011, in the Board Room of the Oklahoma Police

Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on February 17<sup>th</sup>, 2011.

**CONTACT PERSON:**

Darcie Gordon, Administrative Assistant (405) 840-3555 Ext. 227.

*[OAR Docket #11-70; filed 1-25-11]*

**TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS  
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINTS**

*[OAR Docket #11-85A]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

575:1-1-2. Organization and proceedings of the Board; petitions for rule making; declaratory rulings [AMENDED]

575:1-1-3. Investigation of requests for inquiry [AMENDED]

575:1-1-4. Hearings for psychologists [AMENDED]

**SUMMARY:**

The Board is proposing updating the Rules of the Board to include the current Board procedures listing the official website and to correct statute references.

**AUTHORITY:**

The State Board of Examiners of Psychologists has the authority to promulgate Rules for this area of control according to Title 59, O.S. 1981, Section 1352.1(8).

**COMMENT PERIOD:**

Written comments will be accepted February 16, 2011 through March 18, 2011 at: 201 NE 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, OK 73105, Attn: Teanne Rose.

**PUBLIC HEARING:**

A public hearing is scheduled on Friday, March 25, 2011, 9:00 am, at the Oklahoma Veterinary/Dental Board Meeting Room, 201 NE 38<sup>th</sup> Terrace, Suite 1, Oklahoma City, OK 73105.

**COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Oklahoma Board of Examiners of Psychologists, 201 NE 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone (405)524-9094.

**RULE IMPACT STATEMENT:**

The rule impact statement may be obtained from the Oklahoma Board of Examiners of Psychologists, 201 NE 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma, 73105. Telephone (405)524-9094

**CONTACT PERSON:**

Teanne Rose, Executive Officer, (405) 524-9094

*[OAR Docket #11-85A; filed 1-26-11]*

**TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS  
CHAPTER 10. LICENSURE OF PSYCHOLOGISTS**

*[OAR Docket #11-85]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

575:10-1-2. Requirements to become licensed as a psychologist [AMENDED]

575:10-1-6. Directory listing of licensed psychologists [AMENDED]

575:10-1-8. Continuing professional education for psychologists [AMENDED]

575:10-1-9. Fees after becoming licensed as a psychologist [AMENDED]

**SUMMARY:**

The Board is proposing updating the Rules of the Board to include the current Board procedures listing the official website and to correct statute references.

**AUTHORITY:**

The State Board of Examiners of Psychologists has the authority to promulgate Rules for this area of control according to Title 59, O.S. 1981, Section 1352.1(8).

**COMMENT PERIOD:**

Written comments will be accepted February 16, 2011 through March 18, 2011 at: 201 NE 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, OK 73105, Attn: Teanne Rose.

**PUBLIC HEARING:**

A public hearing is scheduled on Friday, March 25, 2011, 9:00 am, at the Oklahoma Veterinary/Dental Board Meeting Room, 201 NE 38<sup>th</sup> Terrace, Suite 1, Oklahoma City, OK 73105.

**COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Oklahoma Board of Examiners of Psychologists, 201 NE 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone (405)524-9094.

# Notices of Rulemaking Intent

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## **RULE IMPACT STATEMENT:**

The rule impact statement may be obtained from the Oklahoma Board of Examiners of Psychologists, 201 NE 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma, 73105. Telephone (405)524-9094

## **CONTACT PERSON:**

Teanne Rose, Executive Officer, (405) 524-9094

*[OAR Docket #11-85; filed 1-26-11]*

## **TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 35. FLEET MANAGEMENT DIVISION**

*[OAR Docket #11-114]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED RULES:**

Chapter 35. Fleet Management Division [AMENDED]

## **SUMMARY:**

Proposed rule revisions provide clarification and updated information related to Fleet Management operating procedures and the preventative maintenance schedule for state-owned vehicles.

## **AUTHORITY:**

Director of the Department of Central Services; 74 O.S. § 78(B)(4)

## **COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Thursday, March 17, 2011, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

## **PUBLIC HEARING:**

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 18, 2011 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:55 a.m. on that day.

## **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

## **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

## **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will available for review on and after March 2, 2011 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

## **CONTACT PERSON:**

Gerry Smedley, Administrative Programs Officer, (405) 522-8519

*[OAR Docket #11-114; filed 1-26-11]*

## **TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 10. LICENSING AND USE PERMITS**

*[OAR Docket #11-77]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED RULES:**

Subchapter 1. General Provisions and Licensing  
630:10-1-9. Non-commercial fee procedures [NEW]

## **SUMMARY:**

In 2009, the Oklahoma Scenic Rivers Act ("the Act") was amended to remove the non-commercial user fee. In 2010, the Act was amended to institute a fee on non-commercial vessels, or privately owned flotation devices (see paragraph B of 82 O.S. § 1470). The Act directs the Scenic Rivers Commission to promulgate rules for the collection and administration of the statutory fees. This rulemaking will cover the procedures for collecting and administering non-commercial fees set by statute.

## **AUTHORITY:**

Scenic Rivers Commission; 82 O.S., §§ 1451 - 1471.

## **COMMENT PERIOD:**

Anyone may submit written comments to Ed Fite at the Scenic Rivers Commission through March 22, 2011. The OSRC is located 2 miles northeast of Tahlequah on State Highway #10, and its mailing address is P.O. Box 292, Tahlequah, OK 74465-0292. You may also email to [osrc@fullnet.net](mailto:osrc@fullnet.net).

The OSRC will then consider adopting the new rule at a special meeting at 5:30 p.m. on Tuesday, March 22, 2011, at the Tahlequah Armory Municipal Center, located at 100 North Water Street, Tahlequah, Oklahoma.

## **PUBLIC HEARING:**

A public hearing to take comments will convene during the March 22 special meeting.

## **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Although nothing in this rulemaking action is expected to adversely impact small business, the OSRC requests that any business entity affected by these proposed changes provide the OSRC with information, within the comment period, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained by writing to or visiting the OSRC office listed above, or from the OSRC website at www.oklahomascenicrivers.net.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review at the OSRC office and website by March 2, 2011.

**CONTACT PERSON:**

Ed Fite, (918) 456-3251.

*[OAR Docket #11-77; filed 1-25-11]*

**TITLE 690. BOARD OF EXAMINERS FOR  
SPEECH-LANGUAGE PATHOLOGY AND  
AUDIOLOGY  
CHAPTER 1. ADMINISTRATIVE  
OPERATIONS**

*[OAR Docket #11-56]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1 General Provisions

690:1-1-5. Application of the Act and rules of the Board  
[AMENDED]

Subchapter 3. Board Organization and Proceedings

690:1-3-1. Board meetings [AMENDED]

690:1-3-2. Office of the Board [AMENDED]

690:1-3-6. Formal and informal procedures [AMENDED]

690:1-3-7. Complaints of violations of the Act  
[REVOKED]

690:1-3-8. Requests to the Board [AMENDED]

690:1-3-9. Distribution of regulations and procedures  
[AMENDED]

690:1-3-10. Officers of the Board [AMENDED]

690:1-3-11. Executive Secretary and staff [AMENDED]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the agencies review of Title 690. The proposed rules clarify existing rules and typographical errors.

**AUTHORITY:**

59 O.S., 2001 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so from February 15, 2011 until 5:00 p.m., March 17, 2011, to the attention of Jeanie Wall, Executive Secretary. Written comments may be mailed to the Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152, hand-delivered to the Board of Examiners for Speech-Language Pathology and Audiology, 3700 N. Classen Blvd, Suite 248, Oklahoma

City, OK, facsimile, at (405) 524-4985 or by email at jwall@obespa.ok.gov.

**PUBLIC HEARING:**

The Department will conduct a public hearing on March 18, 2011 at 1:00 p.m. in Conference Room 265 on the second floor at the address given above.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

OBESPA asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanie Wall, at the above address, before the close of the comment period on March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Jeanie Wall, Executive Secretary, at the above address or through the OBESPA website at www.obespa.ok.gov.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

**ADDITIONAL INFORMATION:**

For additional information contact Lucynda Olberding at 405-414-9869

*[OAR Docket #11-56; filed 1-24-11]*

**TITLE 690. BOARD OF EXAMINERS FOR  
SPEECH-LANGUAGE PATHOLOGY AND  
AUDIOLOGY  
CHAPTER 5. RULES OF PRACTICE**

*[OAR Docket #11-57]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Proceedings upon Denial of License  
[REVOKED]

690:5-3-1. Request for hearing [REVOKED]

690:5-3-2. Submission of hearing request [REVOKED]

690:5-3-3. Scheduling of hearing [REVOKED]

690:5-3-4. Notice of hearing [REVOKED]

690:5-3-5. Rights of aggrieved party at hearing  
[REVOKED]

690:5-3-6. Order of Board affirming its decision  
[REVOKED]

690:5-3-7. Action to annul or vacate Board's order  
[REVOKED]

Subchapter 5. Individual Proceedings

690:5-5-1. Notice of proposed hearing [AMENDED]

Subchapter 7. Procedures in Individual Proceedings

## Notices of Rulemaking Intent

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690:5-7-5. Setting of hearing and hearing continuance  
[AMENDED]

Subchapter 9. Proceedings for Adoption, Amendment and  
Repeal of Rules

690:5-9-2. Petition for promulgation, amendment or repeal  
[AMENDED]

Subchapter 13. Requests for ~~Declaratory~~ Declaratory  
Rulings

690:5-13-1. Filing of petition for declaratory ruling  
[AMENDED]

### SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 5 are part of the agencies review of Title 690. The proposed rules clarify existing rules and typographical errors. The board members are revoking subchapter 3 because the board follows the Administrative Procedures Act and the Act does require individual proceedings for denial of a license.

### AUTHORITY:

59 O.S., 2001 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

### COMMENT PERIOD:

Persons wishing to submit written comments may do so from February 15, 2011 until 5:00 p.m., March 17, 2011, to the attention of Jeanie Wall, Executive Secretary. Written comments may be mailed to the Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152, hand-delivered to the Board of Examiners for Speech-Language Pathology and Audiology, 3700 N. Classen Blvd, Suite 248, Oklahoma City, OK, facsimile, at (405) 524-4985 or by email at [jwall@obespa.ok.gov](mailto:jwall@obespa.ok.gov).

### PUBLIC HEARING:

The Department will conduct a public hearing on March 18, 2011 at 1:00 p.m. in Conference Room 265 on the second floor at the address given above.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

OBESPA asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanie Wall, at the above address, before the close of the comment period on March 17, 2011.

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Jeanie Wall, Executive Secretary, at the above address or through the OBESPA website at [www.obespa.ok.gov](http://www.obespa.ok.gov).

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

### ADDITIONAL INFORMATION:

For additional information contact Lucynda Olberding at 405-414-9869

*[OAR Docket #11-57; filed 1-24-11]*

## TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY CHAPTER 10. LICENSURE AND FEES

*[OAR Docket #11-58]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. Licensure of Speech-language Pathologists and Audiologists

690:10-3-1. Application for licensure as a speech-language pathologist and/or audiologist [AMENDED]

690:10-3-5. Supervised clinical practicum requirement [AMENDED]

690:10-3-6. Clinical experience requirement [AMENDED]

690:10-3-8. Continuing education for speech-language pathologists, ~~and~~ audiologists, audiology assistants, and speech-language pathology assistants [AMENDED]

690:10-3-9. Telepractice [NEW]

Subchapter 5. Licensure of Speech-language Pathology Clinical Experience Interns

690:10-5-1. License to practice as a speech-language pathology clinical experience intern [AMENDED]

690:10-5-6. Requirements for supervision of clinical experience interns [AMENDED]

Subchapter 7. Licensure of Speech-Language Pathology Assistants and Audiology Assistants

690:10-7-1. Authorization to practice as an assistant [AMENDED]

690:10-7-2. Titles to be used by assistants [AMENDED]

690:10-7-3. Supervision required [AMENDED]

690:10-7-4. Licensure [AMENDED]

690:10-7-5. Application for License to assist [AMENDED]

690:10-7-6. Period of Licensure [AMENDED]

690:10-7-7. Requirements for supervision of assistants [REVOKED]

690:10-7-8. Disqualification of Board members [AMENDED]

690:10-7-9. Academic requirements [AMENDED]

690:10-7-10. Roles and responsibilities of Speech-Language Pathology Assistants and Audiology Assistants [AMENDED]

690:10-7-11. Continuing education for ~~speech language pathology assistants~~ Speech-Language Pathology Assistants [AMENDED]

Subchapter 9. Fees

690:10-9-2. License renewal fee [AMENDED]

690:10-9-7. Inactive status fee [AMENDED]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 10 are part of the agencies review of Title 690. The proposed rules clarify existing rules and typographical errors. We have a new rule clarifying the use of telepractice. The board members wanted consistency with all licensed assistants.

**AUTHORITY:**

59 O.S., 2001 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so from February 15, 2011 until 5:00 p.m., March 17, 2011, to the attention of Jeanie Wall, Executive Secretary. Written comments may be mailed to the Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152, hand-delivered to the Board of Examiners for Speech-Language Pathology and Audiology, 3700 N. Classen Blvd, Suite 248, Oklahoma City, OK, facsimile, at (405) 524-4985 or by email at jwall@obespa.ok.gov.

**PUBLIC HEARING:**

The Department will conduct a public hearing on March 18, 2011 at 1:00 p.m. in Conference Room 265 on the second floor at the address given above.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

OBESPA asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanie Wall, at the above address, before the close of the comment period on March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Jeanie Wall, Executive Secretary, at the above address or through the OBESPA website at www.obespa.ok.gov.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

**ADDITIONAL INFORMATION:**

For additional information contact Lucynda Olberding at 405-414-9869

*[OAR Docket #11-58; filed 1-24-11]*

**TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
CHAPTER 15. PROFESSIONAL CODE OF ETHICS**

*[OAR Docket #11-59]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

690:15-1-1. Purpose and interpretation [AMENDED]

690:15-1-3. Principles of ethics [AMENDED]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the agencies review of Title 690. The proposed rules clarify existing rules and typographical errors.

**AUTHORITY:**

59 O.S., 2001 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so from February 15, 2011 until 5:00 p.m., March 17, 2011, to the attention of Jeanie Wall, Executive Secretary. Written comments may be mailed to the Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152, hand-delivered to the Board of Examiners for Speech-Language Pathology and Audiology, 3700 N. Classen Blvd, Suite 248, Oklahoma City, OK, facsimile, at (405) 524-4985 or by email at jwall@obespa.ok.gov.

**PUBLIC HEARING:**

The Department will conduct a public hearing on March 18, 2011 at 1:00 p.m. in Conference Room 265 on the second floor at the address given above.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

OBESPA asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanie Wall, at the above address, before the close of the comment period on March 17, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Jeanie Wall, Executive Secretary, at the above address or through the OBESPA website at www.obespa.ok.gov.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

## Notices of Rulemaking Intent

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### ADDITIONAL INFORMATION:

For additional information contact Lucynda Olberding at 405-414-9869

*[OAR Docket #11-59; filed 1-24-11]*

### TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 25. COIN OPERATED VENDING DEVICES

*[OAR Docket #11-72]*

### RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

### PROPOSED RULES:

Chapter 25. Coin Operated Vending Devices [AMENDED]

### SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing Coin Operated Vending Devices rules have been made to implement recent legislation. All legislative references are to the Second Regular Session of the 52<sup>nd</sup> Legislature (2010) unless otherwise indicated.

Section 710:25-1-9 has been amended to provide for a refund from the Tax Commission of unused decals if they are returned to the Commission within thirty (30) days of the time of purchase.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and insure accurate internal cross-references.

### AUTHORITY:

68 O.S. §§ 203 and 1504; Oklahoma Tax Commission

### COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., March 18, 2011, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

### PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 21, 2011, 10:00 a.m. in the 4<sup>th</sup> floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4<sup>th</sup> floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo

identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

### COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at [www.oktax.state.ok.us](http://www.oktax.state.ok.us).

### RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after March 2, 2011, from the same source listed above for obtaining copies of proposed rules.

### CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: [lhaws@oktax.state.ok.us](mailto:lhaws@oktax.state.ok.us)

*[OAR Docket #11-72; filed 1-25-11]*

### TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 35. THE OKLAHOMA FILM AND MUSIC OFFICE

*[OAR Docket #11-71]*

### RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

### PROPOSED RULES:

Subchapter 1. Oklahoma Film Enhancement Rebate Program

725:35-1-3 [AMENDED]

725:35-1-4 [AMENDED]

725:35-1-5 [AMENDED]

### SUMMARY:

The proposed rule amendments to Parts 3 through 5 clarify requirements for the Film Enhancement Rebate program.

### AUTHORITY:

Title 74. Chapter 47C - Oklahoma Tourism, Parks and Recreation Enhancement Act, Section 2204 - Oklahoma

Tourism and Recreation Commission - Powers, Rights, and Duties

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 5:00 pm on March 17, 2011, at the following address: Claudia Conner, Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

**PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m. on Friday, March 18, 2011 at the Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102. Anyone who wishes to speak must sign in at the door by 10:00 a.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Department requests that business entities affected by these proposed rules provide the Department, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Claudia Conner, Oklahoma Tourism and Recreation Department, 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303 (D), a rule impact statement will be on file and may be requested from the contact person.

**CONTACT PERSON:**

The contact person is Claudia Conner, Assistant Attorney General and General Counsel of the Oklahoma Tourism and Recreation Department. Ms. Conner can be reached at claudia.conner@oklatourism.gov, 405-230-8304 (phone) or 405-230-8504 (fax). The Oklahoma Tourism and Recreation Department is located at 120 N. Robinson, Suite 600, Oklahoma City, OK 73102.

**ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing.

*[OAR Docket #11-71; filed 1-25-11]*

**TITLE 735. STATE TREASURER  
CHAPTER 80. UNCLAIMED PROPERTY**

*[OAR Docket #11-86]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking.

**PROPOSED RULES:**

Chapter 80. Unclaimed Property [AMENDED]

**SUMMARY:**

The proposed revisions to Subchapter Chapter 3. Reporting Requirements Section 1. General Reporting Requirements. Reporting for holders with 15 or more items to report.

The proposed revisions to Subchapter Chapter 3. Reporting Requirements Section 15. Business Associations; Reporting Requirements. Changing reporting requirements from seven (7) years to three (3) years to agree with statute.

**AUTHORITY:**

State Treasurer, "Uniform Unclaimed Property Act", 60 O.S. § 651 et seq.

**COMMENT PERIOD:**

Wednesday, February 16, 2011 to Friday, March 18, 2011. Written and oral comments will be accepted by contacting the person below, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m., Central Time. Persons wishing to submit written comments must do so no later than March 18, 2011 at 4:30 p.m.

**PUBLIC HEARING:**

A public hearing will be held on Wednesday, March 23, 2011 at 3:00 p.m. The hearing will be held at the State Treasurer's Unclaimed Property office conference room located at 2401 NW 23<sup>rd</sup> Street, Suite 42, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The State Treasurer's Office requests that business entities affected by these proposed rules provide the State Treasurer's Office, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susan Bateman, at the address below, before the close of the comment period on March 18, 2011.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the contact person below, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m., Central Time.

**RULE IMPACT STATEMENT:**

A copy of the rule impact statement may be obtained from the contact person listed below, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m., Central Time, beginning Wednesday, March 2, 2011.

**CONTACT PERSON:**

Susan Eubanks, Office of the State Treasurer, 2300 North Lincoln Boulevard, Room 217, Oklahoma City, Oklahoma 73105-4895, telephone number (405) 522-4215.

*[OAR Docket #11-86; filed 1-26-11]*

## Notices of Rulemaking Intent

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### TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #11-100]

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULE:**

Subchapter 3. Organizational Structure

770:1-3-2 [AMENDED]

Appendix A. Oklahoma Department of Veterans Affairs Organizational Structure [REVOKED]

#### **SUMMARY:**

This proposed revision clarifies the number of members of the War Veterans Commission and removes language no longer needed in reference to initial establishment of terms as all appointments are for three years. It will also add the names of the two Oklahoma Department of Veterans Affairs facilities that were not in operation when the rule was initially drafted. It will update the reference to the Commission having "monetary control" over the State Accrediting Agency by including current statutory language. It will also withdraw the organizational chart that no longer reflects the structure of the Oklahoma Department of Veterans Affairs.

#### **AUTHORITY:**

72 OS Section 63.2; Oklahoma Department of Veterans Affairs

#### **COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 4:30 PM on March 17, 2011, at the following address: Martha Spear, Executive Director, Oklahoma Department of Veterans Affairs, 2311 N Central, Oklahoma City, OK 73105, 405.521.3684.

#### **PUBLIC HEARING:**

A public hearing is not currently scheduled, but a request for one could be made to the above listed individual by 4:30 PM on March 17, 2011.

#### **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

NA

#### **COPIES OF PROPOSED RULES:**

Copies of the proposed rule may be obtained from the Oklahoma Department of Veterans Affairs, 2311 N Central, Oklahoma City, OK 73105, 405.521.3684.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 OS Section 303 (D), a rule impact statement will be prepared and may be obtained from the Oklahoma Department of Veterans Affairs at the above address beginning February 15, 2011.

#### **CONTACT PERSON:**

Martha Spear or Jewell Coe, 405.521.3684

[OAR Docket #11-100; filed 1-26-11]

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### TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #11-111]

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 3. Technology Centers Education

[AMENDED]

#### **SUMMARY:**

The rule amendment is for clarification purposes, updates language and corrects formatting.

#### **AUTHORITY:**

Oklahoma State Board of Career and Technology Education; 70 O.S. Supp. 2010, § 14-103, 70 O.S. 2001 § 14-104, as amended.

#### **COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so from February 15 through March 23, 2011, to Connie Holland, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

#### **PUBLIC HEARING:**

Hearings will begin at 9:30a.m., Thursday March 31, 2011, in Room 1-20, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

#### **COPIES OF PROPOSED RULES:**

Copies will be on file for public viewing beginning February 15, 2011, in the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

#### **RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared as required by law, and will be available beginning February 15, 2011, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

#### **CONTACT PERSON:**

Marie Saatkamp, Human Resources Specialist, 405-743-5455

[OAR Docket #11-111; filed 1-26-11]

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**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES**

*[OAR Docket #11-112]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Secondary, Full-Time and Short-Term Adult CareerTech Programs [AMENDED]

**SUMMARY:**

The rule amendment corrects errors in format, updates language and clarifies what is in the plan of study.

**AUTHORITY:**

Oklahoma State Board of Career and Technology Education; 70 O.S. Supp. 2010, § 14-103, 70 O.S. 2001 § 14-104, as amended.

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so from February 15 through March 23, 2011, to Connie Holland, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

**PUBLIC HEARING:**

Hearings will begin at 9:30a.m., Thursday March 31, 2011, in Room 1-20, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies will be on file for public viewing beginning February 15, 2011, in the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared as required by law, and will be available beginning February 15, 2011, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

**CONTACT PERSON:**

Marie Saatkamp, Human Resources Specialist, 405-743-5455

*[OAR Docket #11-112; filed 1-26-11]*

**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 25. BUSINESS AND INDUSTRY SERVICES**

*[OAR Docket #11-113]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Business and Industry Development [AMENDED]

**SUMMARY:**

The rule amendment updates language.

**AUTHORITY:**

Oklahoma State Board of Career and Technology Education; 70 O.S. Supp. 2010, § 14-103, 70 O.S. 2001 § 14-104, as amended.

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so from February 15 through March 23, 2011, to Connie Holland, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

**PUBLIC HEARING:**

Hearings will begin at 9:30a.m., Thursday March 31, 2011, in Room 1-20, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies will be on file for public viewing beginning February 15, 2011, in the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared as required by law, and will be available beginning February 15, 2011, at the Office of the State Board of Career and Technology Education, Rm. 1-18, Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

**CONTACT PERSON:**

Marie Saatkamp, Human Resources Specialist, 405-743-5455

*[OAR Docket #11-113; filed 1-26-11]*



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# Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register*.

*For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.*

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

*[OAR Docket #11-60]*

**RULEMAKING ACTION:**

Cancelled public comment period relating to a proposed PERMANENT rulemaking action

**PROPOSED RULES:**

- Subchapter 21. Waste Tire Processing, Certification, Permits and Compensation
- Part 1. General Provisions
- 252:515-21-2. Definitions [AMENDED]
- Part 3. Waste Tire Facilities
- 252:515-21-34. Mobile Operations [AMENDED]
- Part 7. Compensation from the Waste Tire Indemnity Fund
- 252:515-21-71. Eligibility requirements [AMENDED]

- 252:515-21-72. Ineligible for compensation [AMENDED]
- Appendix H. Procedure for Calculating Closure Costs Estimates for Financial Assurance [REVOKED]
- Appendix H. Procedure for Calculating Closure Costs Estimates for Financial Assurance [NEW]

**REGISTER PUBLICATION OF NOTICE:**

The Notice of Rulemaking Intent for this action was published at 28 Ok Reg 326.

**CANCELLED PUBLIC HEARING:**

Environmental Quality Board at 9:30 a.m. on February 25, 2011, in the Multipurpose Room on the 1<sup>st</sup> floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

**ADDITIONAL INFORMATION:**

None.

*[OAR Docket #11-60; filed 1-24-11]*

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# Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

## **TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS**

*[OAR Docket #11-61]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULE:**

325:25-1-10 [AMENDED]

### **SUBMITTED TO GOVERNOR:**

January 21, 2011

### **SUBMITTED TO HOUSE:**

January 21, 2011

### **SUBMITTED TO SENATE:**

January 21, 2011

*[OAR Docket #11-61; filed 1-24-11]*

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS**

*[OAR Docket #11-92]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-2 through 377:1-1-3 [AMENDED]

377:1-1-5 through 377:1-1-11 [AMENDED]

### **SUBMITTED TO GOVERNOR:**

January 26, 2011

### **SUBMITTED TO HOUSE:**

January 26, 2011

### **SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-92; filed 1-26-11]*

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES**

*[OAR Docket #11-93]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 1. Office of the Executive Director

Part 1. ~~Legislative Liaison~~ Director of Government Relations

377:3-1-1 [AMENDED]

Part 3. Office of the Advocate General

377:3-1-20 [AMENDED]

377:3-1-26 [AMENDED]

377:3-1-34 [AMENDED]

Part 5. Media and Community Relations

377:3-1-46 [AMENDED]

377:3-1-47 [AMENDED]

Subchapter 3. Office of General Counsel Services

Part 1. General Provisions

377:3-3-2 [AMENDED]

Subchapter 5. Office of Human Resources Management

Part 1. Overview of the Office of Human Resources Management

377:3-5-1 [AMENDED]

Subchapter 7. Finance Department

377:3-7-1 [AMENDED]

Subchapter 9. Office of Policy

Part 7. Policy and Accreditation

377:3-9-40 [AMENDED]

Subchapter 13. Office of Public Integrity

Part 3. Requirements for Secure Juvenile Detention Centers

377:3-13-35 [AMENDED]

377:3-13-37 [AMENDED]

377:3-13-39 [AMENDED]

377:3-13-45 [AMENDED]

Part 5. Requirements for Municipal Juvenile Facilities

377:3-13-60 [AMENDED]

377:3-13-62 [AMENDED]

Part 7. Requirements for Community Intervention Centers (CIC)

377:3-13-80 [AMENDED]

377:3-13-81 [AMENDED]

377:3-13-82 [AMENDED]

377:3-13-88 [AMENDED]

377:3-13-90 [AMENDED]

Subchapter 15. Information Technology Department

Part 1. General Provisions [NEW]

377:3-15-2 [AMENDED]

377:3-15-3 [AMENDED]

Subchapter 17. Federal Funds Development Unit

Part 1. General Provisions

377:3-17-2 [AMENDED]

Subchapter 19. Contract, Procurement, and Support Services

377:3-19-1 [AMENDED]

## Submissions for Review

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377:3-19-3 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-93; filed 1-26-11]*

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**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 5. OFFICE OF THE PAROLE  
BOARD RELEASE FROM INSTITUTIONAL  
PLACEMENT**

*[OAR Docket #11-94]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

377:5-1-1 [AMENDED]

377:5-1-3 [AMENDED]

377:5-1-4 [NEW]

Subchapter 3. Pre-Release Planning

377:5-3-1 through 377:5-3-4 [AMENDED]

377:5-3-6 [NEW]

Subchapter 5. Hearings

377:5-5-3 [AMENDED]

377:5-5-4 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-94; filed 1-26-11]*

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**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 10. OFFICE OF JUVENILE  
AFFAIRS**

*[OAR Docket #11-95]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

377:10-1-1.1 [AMENDED]

377:10-1-3 [AMENDED]

377:10-1-4 [AMENDED]

377:10-1-4.1 [NEW]

377:10-1-4.2 [NEW]

377:10-1-7 through 377:10-1-11 [AMENDED]

Subchapter 3. Placement

377:10-3-1 through 377:10-3-3 [AMENDED]

Subchapter 7. Contract Programs and Services

Part 1. General Provisions and Foster Care

377:10-7-1 [AMENDED]

377:10-7-3 [AMENDED]

377:10-7-4 [AMENDED]

377:10-7-5 [AMENDED]

377:10-7-7 [AMENDED]

Part 5. Detention

377:10-7-30 [AMENDED]

Part 7. Independent and Transitional Living

377:10-7-40 through 377:10-7-42 [AMENDED]

Part 9. Contracted Services

377:10-7-50 [AMENDED]

Subchapter 11. Child in Need of Mental Health Treatment

377:10-11-1 [AMENDED]

Subchapter 13. Regimented Juvenile Training Programs  
Standards

Part 1. General Provisions

377:10-13-1 [AMENDED]

Part 17. Security and Control

377:10-13-89 [AMENDED]

377:10-13-90 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-95; filed 1-26-11]*

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**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 15. COMMUNITY-BASED  
YOUTH SERVICES**

*[OAR Docket #11-96]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

377:15-1-2 [AMENDED]

Subchapter 5. Designation of Community-Based Youth  
Services Agencies

377:15-5-2 [AMENDED]

377:15-5-4 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-96; filed 1-26-11]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 25. JUVENILE SERVICES UNIT**

*[OAR Docket #11-97]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions  
377:25-1-2 [AMENDED]
- Subchapter 3. Pre-court  
Part 1. Juvenile Detention  
377:25-3-1 [AMENDED]  
377:25-3-2 [AMENDED]
- Part 3. Intake/Preliminary Inquiry  
377:25-3-15 [AMENDED]
- Part 5. Restitution  
377:25-3-40 [AMENDED]
- Subchapter 5. Court  
377:25-5-2 [AMENDED]
- Subchapter 7. Custody  
Part 3. Services to Custody Juveniles  
377:25-7-17 [AMENDED]
- Part 9. Extended custody  
377:25-7-50 [AMENDED]
- Subchapter 9. Caseworker Services  
Part 1. Services Provided by the JSU Worker  
377:25-9-1 through 377:25-9-2 [AMENDED]  
377:25-9-3 [AMENDED]
- Subchapter 11. Case Records and Reports  
377:25-11-3 [AMENDED]  
377:25-11-5 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-97; filed 1-26-11]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 30. RESIDENTIAL SERVICES**

*[OAR Docket #11-98]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions

377:30-1-1 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-98; filed 1-26-11]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 35. INSTITUTIONAL SERVICES**

*[OAR Docket #11-99]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions  
377:35-1-1 [AMENDED]
- Subchapter 9. Juvenile Rights  
377:35-9-1 [AMENDED]  
377:35-9-2 [AMENDED]
- Subchapter 11. Juvenile Rules/Discipline  
377:35-11-1 [AMENDED]  
377:35-11-6 [AMENDED]
- Subchapter 17. Ancillary Programs  
377:35-17-1 [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 26, 2011

**SUBMITTED TO HOUSE:**

January 26, 2011

**SUBMITTED TO SENATE:**

January 26, 2011

*[OAR Docket #11-99; filed 1-26-11]*

**TITLE 590. OKLAHOMA PUBLIC  
EMPLOYEES RETIREMENT SYSTEM  
CHAPTER 10. PUBLIC EMPLOYEES  
RETIREMENT SYSTEM**

*[OAR Docket #11-73]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions  
590:10-1-11. De minimis provisions [AMENDED]
- Subchapter 3. Credited Service  
590:10-3-6. Full-time-equivalent employment  
[AMENDED]
- 590:10-3-8. Actuarial cost for purchases; delinquent service cost [AMENDED]
- 590:10-3-13. Credit for involuntary furlough [AMENDED]

## Submissions for Review

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### Subchapter 7. Retirement Benefits

590:10-7-18. Post-retirement employment-eligibility [AMENDED]

590:10-7-19. Required minimum distributions [AMENDED]

### Subchapter 9. Survivors and Beneficiaries

590:10-9-2. Death benefit payment [AMENDED]

### Subchapter 11. Transported and State Portable Service Credit

590:10-11-4. Use of transported service [AMENDED]

590:10-11-13. Use of transferred state portable service [AMENDED]

### Subchapter 17. Step-Up Election and Benefits

590:10-17-10. Step-up benefits not eligible for Excess Benefit Plan [NEW]

### Subchapter 21. Excess Benefit Plan and Trust [NEW]

590:10-21-1. Establishment and purpose [NEW]

590:10-21-2. Definitions [NEW]

590:10-21-3. Construction [NEW]

590:10-21-4. Participation [NEW]

590:10-21-5. Payment of benefits [NEW]

590:10-21-6. Contributions and funding [NEW]

590:10-21-7. Trust fund [NEW]

590:10-21-8. Administration [NEW]

590:10-21-9. Plan amendments [NEW]

590:10-21-10. Nonassignability and exemption from taxation and execution [NEW]

590:10-21-11. Federal and state taxes [NEW]

590:10-21-12. Investment [NEW]

590:10-21-13. Conflicts and limitation of rights [NEW]

#### **SUBMITTED TO GOVERNOR:**

January 25, 2011

#### **SUBMITTED TO HOUSE:**

January 25, 2011

#### **SUBMITTED TO SENATE:**

January 25, 2011

*[OAR Docket #11-73; filed 1-25-11]*

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### **TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES**

*[OAR Docket #11-74]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

##### Subchapter 1. General Provisions

590:15-1-21. Required minimum distributions [AMENDED]

### Subchapter 5. Excess Benefit Plan and Trust [NEW]

590:15-5-1. Establishment and purpose [NEW]

590:15-5-2. Definitions [NEW]

590:15-5-3. Construction [NEW]

590:15-5-4. Participation [NEW]

590:15-5-5. Payment of benefits [NEW]

590:15-5-6. Contributions and funding [NEW]

590:15-5-7. Trust fund [NEW]

590:15-5-8. Administration [NEW]

590:15-5-9. Plan amendments [NEW]

590:15-5-10. Nonassignability and exemption from taxation and execution [NEW]

590:15-5-11. Federal and state taxes [NEW]

590:15-5-12. Investment [NEW]

590:15-5-13. Conflicts and limitation of rights [NEW]

#### **SUBMITTED TO GOVERNOR:**

January 25, 2011

#### **SUBMITTED TO HOUSE:**

January 25, 2011

#### **SUBMITTED TO SENATE:**

January 25, 2011

*[OAR Docket #11-74; filed 1-25-11]*

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### **TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 25. DEFERRED COMPENSATION**

*[OAR Docket #11-75]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

##### Subchapter 9. Benefits

590:25-9-1. Commencement of benefits [AMENDED]

590:25-9-2. Distribution schedule [AMENDED]

590:25-9-8. Death [AMENDED]

590:25-9-10. Method of payment [AMENDED]

590:25-9-11. Payment and ~~settlement~~ distribution options [AMENDED]

#### **SUBMITTED TO GOVERNOR:**

January 25, 2011

#### **SUBMITTED TO HOUSE:**

January 25, 2011

#### **SUBMITTED TO SENATE:**

January 25, 2011

*[OAR Docket #11-75; filed 1-25-11]*

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**TITLE 590. OKLAHOMA PUBLIC  
EMPLOYEES RETIREMENT SYSTEM  
CHAPTER 35. DEFERRED SAVINGS  
INCENTIVE PLAN**

*[OAR Docket #11-76]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 13. Benefits and Distributions
- 590:35-13-1. Commencement [AMENDED]
- 590:35-13-5. Death [AMENDED]
- 590:35-13-7. Payment and ~~settlement~~ distribution options [AMENDED]

**SUBMITTED TO GOVERNOR:**

January 25, 2011

**SUBMITTED TO HOUSE:**

January 25, 2011

**SUBMITTED TO SENATE:**

January 25, 2011

*[OAR Docket #11-76; filed 1-25-11]*

**TITLE 600. REAL ESTATE APPRAISER  
BOARD  
CHAPTER 30. APPRAISAL MANAGEMENT  
COMPANY REGISTRATION**

*[OAR Docket #11-50]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- 600:30-1-1. Purpose [NEW]
- 600:30-1-2. Definitions [NEW]
- 600:30-1-3. Certificate of Registration [NEW]
- 600:30-1-4. Application process [NEW]
- 600:30-1-5. Renewal process [NEW]
- 600:30-1-6. Fee schedule [NEW]
- 600:30-1-7. Change of information [NEW]
- 600:30-1-8. Background investigations [NEW]
- 600:30-1-9. Business entities [NEW]
- 600:30-1-10. Recordkeeping [NEW]
- 600:30-1-11. Severability provision [NEW]

**SUBMITTED TO GOVERNOR:**

January 12, 2011

**SUBMITTED TO HOUSE:**

January 12, 2011

**SUBMITTED TO SENATE:**

January 12, 2011

*[OAR Docket #11-50; filed 1-12-11]*

**TITLE 600. REAL ESTATE APPRAISER  
BOARD  
CHAPTER 35. APPRAISAL MANAGEMENT  
COMPANY ENFORCEMENT**

*[OAR Docket #11-51]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- 600:35-1-1. Purpose [NEW]
- 600:35-1-2. Definitions [NEW]
- 600:35-1-3. Conduct [NEW]
- 600:35-1-4. Complaints [NEW]
- 600:35-1-5. Complaint procedures [NEW]
- 600:35-1-6. Formal complaint [NEW]
- 600:35-1-7. Notice of disciplinary proceedings [NEW]
- 600:35-1-8. Pre-hearing matters [NEW]
- 600:35-1-9. Subpoenas and subpoenas duces tecum [NEW]
- 600:35-1-10. Disciplinary proceedings [NEW]
- 600:35-1-11. Burden of proof, standard of proof [NEW]
- 600:35-1-12. Right to counsel [NEW]
- 600:35-1-13. Rules of evidence [NEW]
- 600:35-1-14. Failure to appear [NEW]
- 600:35-1-15. Oral argument before the Board [NEW]
- 600:35-1-16. Rehearing, reopening or reconsideration of Board decision [NEW]
- 600:35-1-17. Record of hearing [NEW]
- 600:35-1-18. Request for declaratory ruling [NEW]
- 600:35-1-19. Request for rule adoption, amendment or repeal [NEW]
- 600:35-1-20. Severability provision [NEW]

**SUBMITTED TO GOVERNOR:**

January 12, 2011

**SUBMITTED TO HOUSE:**

January 12, 2011

**SUBMITTED TO SENATE:**

January 12, 2011

*[OAR Docket #11-51; filed 1-12-11]*



# Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

*For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.*

## **TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM**

*[OAR Docket #11-84]*

### **RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

### **WITHDRAWN RULES:**

Subchapter 1. General Provisions

240:10-1-2. Definitions [AMENDED]

Subchapter 3. Benefits

Part 5. Eligibility

240:10-3-23. Claims for total unemployment benefits  
[AMENDED]

240:10-3-29. Employer leave due to illness or disability  
[NEW]

Subchapter 5. Contributions

Part 3. Rates

240:10-5-15. Successor acquiring the experience rating  
account of predecessor [AMENDED]

Part 19. Maintenance and Production of Work Records

240:10-5-91. Employer's Quarterly Contribution Wage  
Reports [AMENDED]

240:10-5-96. Application for Oklahoma UI Tax Account  
Number [NEW]

Subchapter 11. Assessment Board Procedures

Part 5. Hearings

240:10-11-20. Notice of hearings [AMENDED]

240:10-11-22. Conduct of hearings [AMENDED]

240:10-11-25. Motion to reopen after failure to appear  
[AMENDED]

Subchapter 13. Appeal Tribunal Procedures

Part 5. Hearings

240:10-13-33. ~~Notice~~ Notice of hearing [AMENDED]

240:10-13-40. Reopen [AMENDED]

240:10-13-42. Conduct of hearings [AMENDED]

### **DATES:**

Adoption:

December 14, 2010

Submitted to Governor:

December 16, 2010

Submitted to House:

December 16, 2010

Submitted to Senate:

December 16, 2010

Withdrawn:

January 25, 2011

*[OAR Docket #11-84; filed 1-26-11]*



# Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] . . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

*For additional information on the emergency rulemaking process, see 75 O.S., Section 253.*

## TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #11-47]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 5. Individual Providers and Specialties

Part 3. Hospitals

317:30-5-42.16. [AMENDED]

Part 58. Non-Hospital Based Hospice

317:30-5-532. [AMENDED]

(Reference APA WF # 10-54)

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Laws 111-148 and 111-152.

### DATES:

#### Adoption:

December 9, 2010

#### Approved by Governor:

January 6, 2011

#### Effective:

Immediately upon Governor's approval

#### Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### FINDING OF EMERGENCY:

The Agency has determined a necessity for promulgation of emergency rules to avoid violation of federal law or regulation or other state law and requests emergency approval of rule revisions to the Agency's hospice rules. Public Laws 111-148 and 111-152 were enacted which require hospice services be available to children eligible for Medicaid without forgoing any other services to which the child is entitled under Medicaid for treatment of the terminal condition. Emergency rule revisions are necessary to comply with these federal regulations and Centers for Medicare & Medicaid Services (CMS) guidance.

### ANALYSIS:

Hospice rules are revised to allow hospice services to be available to children eligible for Medicaid without forgoing any other service for treatment of terminal conditions. Public Laws 111-148 and 111-152 were enacted which remove the restriction that children in need of hospice that are eligible for Medicaid have to elect hospice services in lieu of standard Medicaid services that had the objective to treat or cure the terminal illness. Additional revisions include allowing nurse practitioners to recertify the continuation of hospice services. The revisions ensure the Agency is in compliance with federal law.

### CONTACT PERSON:

Tywanda Cox at (405)522-7153

PURSUANT TO THE ACTIONS DESCRIBED HEREIN,  
THE FOLLOWING EMERGENCY RULES ARE  
CONSIDERED PROMULGATED AND EFFECTIVE  
UPON APPROVAL BY THE GOVERNOR AS SET  
FORTH IN 75 O.S., SECTION 253(D):

## SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

### PART 3. HOSPITALS

#### 317:30-5-42.16. Related services

(a) **Ambulance.** Ambulance services furnished by the facility are covered separately if otherwise compensable under the Authority's Medical Programs.

(b) **Home health care.** Hospital based home health providers must be Medicare certified and have a current Home Health Agency contract with the OHCA.

(1) Payment is made for home health services provided in a member's residence to all categorically needy individuals.

(2) Payment is made for a maximum of 36 visits per year for eligible members 21 years of age or older. Payment for any combination of skilled and home health aide visits can not exceed 36 visits per year.

(3) Payment is made for standard medical supplies.

(4) Payment is made on a rental or purchase basis for equipment and appliances suitable for use in the home.

(5) Non-covered items include sales tax, enteral therapy and nutritional supplies, and electro-spinal orthosis systems (ESO).

(6) Payment may be made to home health agencies for prosthetic devices.

(A) Coverage of oxygen includes rental of liquid oxygen systems, gaseous oxygen systems and oxygen concentrators when prior authorized. Purchase of oxygen systems may be made where unusual circumstances exist and purchase is considered most appropriate.

(B) Payment is made for permanent indwelling catheters, drain bags, insert trays and irrigation trays. Male external catheters are also covered.

## Emergency Adoptions

- (C) Sterile tracheotomy trays are covered.
- (D) Payment is made for colostomy and urostomy bags and accessories.
- (E) Payment is made for hyperalimentation, including supplements, supplies and equipment rental ~~in~~ on behalf of persons having permanently inoperative internal body organ dysfunction. Information regarding the member's medical condition that necessitates the hyperalimentation and the expected length of treatment, should be attached when requesting prior authorization.
- (F) Payment is made for ventilator equipment and supplies when prior authorized.
- (G) Payment for medical supplies, oxygen, and equipment is made when using appropriate HCPCS codes which are included in the HCPCS Level II Coding Manual.

(c) **Hospice Services.** Hospice is defined as palliative and/or comfort care provided to the member family when a physician certifies that the member has a terminal illness and has a life expectancy of six months or less. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and death. Hospice services must be related to the palliation and management of the member's illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills.

(1) Payment is made for home based hospice services for terminally ill individuals under the age of 21 with a life expectancy of six months or less when the member and/or family has elected hospice benefits ~~in lieu of standard SoonerCare services that have the objective to treat or cure the member's illness.~~ Hospice services are available to eligible members without forgoing any other service to which the member is entitled under SoonerCare for curative treatment of the terminal illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the terminal illness in the home environment. Hospice providers are not responsible for curative treatments for members that elect such services while on hospice. Hospice care includes nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the member and/or family.

(2) Hospice care is available for two initial 90-day periods and an unlimited number of subsequent 60-day periods during the remainder of the member's lifetime. Beginning January 1, 2011, a hospice physician or nurse practitioner must have a face to face encounter with the member to determine if the member's terminal illness necessitates continuing hospice care services. The encounter must take place prior to the 180th day recertification and each subsequent recertification thereafter; and attests that such visit took place. However, the

The member and/or the family may voluntarily terminate hospice services.

(3) Hospice services must be reasonable and necessary for the palliation or management of a terminal illness or related conditions. A certification that the member is terminally ill must be completed by the member's attending physician or the Medical Director of an Interdisciplinary Group. Nurse practitioners serving as the attending physician may not certify ~~or re-certify~~ the terminal illness; however, effective January 1, 2011, nurse practitioners may re-certify the terminal illness.

(4) Services must be prior authorized. A written plan of care must be established before services are provided. The plan of care should be submitted with the prior authorization request.

### PART 58. NON-HOSPITAL BASED HOSPICE

#### 317:30-5-532. Coverage for children

Hospice is palliative and/or comfort care provided to the ~~client member~~ and his/her family when a physician certifies that the ~~client member~~ has a terminal illness and has a life expectancy of six months or less to live and orders hospice care. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and ~~during dying and bereavement death.~~ The hospice Hospice services must be related to the palliation and management of the ~~client's member's~~ illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills.

(1) Payment is made for home based hospice services for terminally ill individuals with a life expectancy of six months or less when the ~~patient member~~ and/or family has elected hospice benefits ~~in lieu of standard Medicaid services that has the objective to treat or cure the client's illness.~~ Hospice services are available to eligible members without forgoing any other service to which the member is entitled under SoonerCare for curative treatment of the terminal illness. Once the ~~client member~~ has elected hospice care, the hospice medical team assumes responsibility for the ~~client's member's~~ medical care for the terminal illness in the home environment. Hospice providers are not responsible for curative treatments for members that elect such services while on hospice. Hospice care includes nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the ~~client member~~ and/or family. Services must be prior authorized.

(2) Hospice care is available for two 90-day periods and an unlimited number of 60-day periods during the remainder of the ~~patient's member's~~ lifetime. Beginning January 1, 2011, a hospice physician or nurse practitioner must have a face to face encounter with the member to

determine if the member's terminal illness necessitates continuing hospice care services. The encounter must take place prior to the 180th day recertification and each subsequent recertification thereafter; and attests that such visit took place. However, the patient ~~The member and/or the family may voluntarily terminate hospice services. To be covered, hospice~~ Hospice services must be reasonable and necessary for the palliation or management of a terminal illness or related conditions. A certification that the individual is terminally ill must be completed by the patient's member's attending physician or the Medical Director of an Interdisciplinary Group. Nurse practitioners serving as the attending physician may not certify or re-certify the terminal illness; however, effective January 1, 2011, nurse practitioners may re-certify the terminal illness. A plan of care must be established before services are provided. The plan of care should be submitted with the prior authorization request.

(3) Services must be prior authorized. A written plan of care must be established before services are provided. The plan of care should be submitted with the prior authorization request.

*[OAR Docket #11-47; filed 1-11-11]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS**

*[OAR Docket #11-48]*

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

- Subchapter 1. Medically Fragile Waiver Services [NEW]  
317:50-1-14. [NEW]
  - Subchapter 3. My Life, My Choice Waiver Services [NEW]  
317:50-3-14. [NEW]
  - Subchapter 5. Sooner Seniors Waiver Services [NEW]  
317:50-5-14. [NEW]
- (Reference APA WF # 10-55B)**

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Laws 111-148 and 111-152

**DATES:**

**Adoption:**

December 9, 2010

**Approved by Governor:**

January 6, 2011

**Effective:**

Immediately upon Governor's Approval

**Expiration:**

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

- Subchapter 1. Medically Fragile Waiver  
317:50-1-14

**Gubernatorial approval:**

July 20, 2010

**Register Publication:**

27 Ok Reg 2769

**Docket number:**

10-1136

**Superseded rules:**

- Subchapter 3. My Life, My Choice  
317:50-3-14

**Gubernatorial approval:**

October 14, 2010

**Register Publication:**

28 Ok Reg 127

**Docket number:**

10-1227

**Superseded rules:**

- Subchapter 5. Sooner Seniors  
317:50-5-14

**Gubernatorial approval:**

October 14, 2010

**Register Publication:**

28 Ok Reg 148

**Docket number:**

10-1226

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

The Agency has determined a necessity for promulgation of emergency rules to avoid violation of federal law or regulation or other state law and requests emergency approval of rule revisions to the Agency's Home and Community Based Waiver Programs (ADvantage, Medically Fragile, MY Life, My Choice and Sooner Seniors). Public Laws 111-148 and 111-152 require SoonerCare members receiving hospice to be re-evaluated after the initial six month service period to ensure that hospice continues to be medically necessary. Additional hospice services will be approved for a maximum of 60 days without another re-evaluation.

**ANALYSIS:**

Rules are revised to include a re-evaluation and approval of additional hospice services within the ADvantage, Medically Fragile, My Life My Choice and Sooner Seniors waiver programs. The Medicaid waivers are Home and Community Based Services programs that allow individuals qualifying for SoonerCare long term care institutional services to live in a home or community based setting. Hospice is a service provided to SoonerCare members within the waivers, and currently has no authorization limits. Rules are revised to include a re-authorization process after the initial 6 months of hospice care. A re-evaluation of the member will be performed and additional hospice care authorized for a period not to exceed 60 days. A re-evaluation will be performed every 60 days until the member no longer requires hospice.

**CONTACT PERSON:**

Tywanda Cox at (405)522-7153

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):**

**SUBCHAPTER 1. MEDICALLY FRAGILE WAIVER SERVICES**

**317:50-1-14. Description of services**

Services included in the Medically Fragile Waiver Program are as follows:

**(1) Case Management.**

(A) Case Management services are services that assist a member in gaining access to medical, social, educational or other services, regardless of payment source of services, that may benefit the member in maintaining health and safety. Case managers initiate and oversee necessary assessments and reassessments

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to establish or reestablish Waiver program eligibility. Case managers develop the member's comprehensive plan of care, listing only services which are necessary to prevent institutionalization of the member, as determined through assessments. Case managers initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support. Case managers monitor the member's condition to ensure delivery and appropriateness of services and initiate plan of care reviews. If a member requires hospital or skilled nursing facility services, the case manager assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay and helps the member transition from institution to home by updating the service plan and preparing services to start on the date the member is discharged from the institution. Case Managers must meet Medically Fragile Waiver Program minimum requirements for qualification and training prior to providing services to members. Prior to providing services to members choosing to Self-Direct their services, Case Managers are required to receive training and demonstrate knowledge regarding the Self-Directed Service delivery model.

(B) Providers may only claim time for billable Case Management activities described as follows:

(i) A billable case management activity is any task or function defined under OAC 317:50-1-15(1)(A) that only a Medically Fragile case manager because of skill, training or authority, can perform on behalf of a member;

(ii) Ancillary activities such as clerical tasks like mailing, copying, filing, faxing, drive time or supervisory/administrative activities are not billable case management activities, although the administrative cost of these activities and other normal and customary business overhead costs have been included in the reimbursement rate for billable activities.

(C) Case Management services are prior authorized and billed per 15-minute unit of service using the rate associated with the location of residence of the member served.

(i) **Standard Rate:** Case Management services are billed using a Standard rate for reimbursement for billable service activities provided to a member who resides in a county with population density greater than 25 persons per square mile.

(ii) **Very Rural/Difficult Service Area Rate:** Case Management services are billed using a Very Rural/Difficult Service Area rate for billable service activities provided to a member who resides in a county with population density equal to or less than 25 persons per square mile. An exception would be services to members that reside in OHCA identified zip codes in Osage County adjacent to metropolitan areas of Tulsa

and Washington Counties. Services to these members are prior authorized and billed using the Standard rate.

(iii) The latest United States Census, Oklahoma Counties population data is the source for determination of whether a member resides in a county with a population density equal to or less than 25 persons per square mile, or resides in a county with a population density greater than 25 persons per square mile.

(2) **Respite.**

(A) Respite services are provided to members who are unable to care for themselves. They are provided on a short-term basis because of the absence or need for relief of the primary caregiver. Payment for respite care does not include room and board costs unless more than seven hours are provided in a nursing facility. Respite care will only be utilized when other sources of care and support have been exhausted. Respite care will only be listed on the plan of care when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the plan of care.

(B) In-Home Respite services are billed per 15-minute unit service. Within any one-day period, a minimum of eight units must be provided with a maximum of 28 units provided. The service is provided in the member's home.

(C) Facility-Based Extended Respite is filed for a per diem rate, if provided in Nursing Facility. Extended Respite must be at least eight hours in duration.

(D) In-Home Extended Respite is filed for a per diem rate. A minimum of eight hours must be provided in the member's home.

(3) **Environmental Modifications.**

(A) Environmental Modifications are physical adaptations to the home, required by the member's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home and without which, the member would require institutionalization. Adaptations or improvements to the home which are not of direct medical or remedial benefit to the Waiver member are excluded.

(B) All services require prior authorization.

(4) **Specialized Medical Equipment and Supplies.**

(A) Specialized Medical Equipment and Supplies are devices, controls, or appliances specified in the plan of care, which enable members to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. Also included are items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid state plan. This service

excludes any equipment and/or supply items which are not of direct medical or remedial benefit to the Waiver member. This service is necessary to prevent institutionalization.

(B) Specialized Medical Equipment and Supplies are billed using the appropriate HCPC procedure code. Reoccurring supplies which are shipped to the member are compensable only when the member remains eligible for Waiver services, continues to reside in the home and is not institutionalized in a hospital, skilled nursing facility or nursing home. It is the provider's responsibility to verify the member's status prior to shipping these items. Payment for medical supplies is limited to the Medicare rate, or the SoonerCare rate, or actual acquisition cost plus 30 percent.

**(5) Advanced Supportive/Restorative Assistance.**

(A) Advanced Supportive/Restorative Assistance services are maintenance services to assist a member who has a chronic, yet stable, condition. These services assist with activities of daily living which require devices and procedures related to altered body functions. This service is for maintenance only and is not utilized as a treatment service.

(B) Advanced Supportive/Restorative Assistance service is billed per 15-minute unit of service. The number of units of this service a member may receive is limited to the number of units approved on the plan of care.

**(6) Nursing.**

(A) Nursing services are services listed in the plan of care which are within the scope of the Oklahoma Nursing Practice Act and are provided by a registered professional nurse, or licensed practical or vocational nurse under the supervision of a registered nurse, licensed to practice in the State. Nursing services includes skilled nursing and/or private duty nursing. Skilled nursing is provided on an intermittent or part-time basis. Private duty nursing is individual and continuous care provided to a participant at home by licensed nurses. The provision of the nursing service will work to prevent or postpone the institutionalization of the member.

(B) Nursing services are services of a maintenance or preventive nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services which would be reimbursable under either Medicaid or Medicare's Home Health Program. This service primarily provides nurse supervision to the Personal Care Assistant or to the Advanced Supportive/Restorative Assistance Aide and assesses the member's health and prescribed medical services to

ensure that they meet the member's needs as specified in the plan of care. A skilled nursing assessment/evaluation on-site visit is made to each member for whom Advanced Supportive/Restorative Assistance services are authorized to evaluate the condition of the member and medical appropriateness of services. An assessment/evaluation visit report will be made to the Medically Fragile Waiver case manager in accordance with review schedule determined in consultation between the Case Manager and the Skilled Nurse, to report the member's condition or other significant information concerning each advanced supportive/restorative care member.

(i) The case manager may recommend authorization of Skilled Nursing services as part of the interdisciplinary team planning for the member's service plan and/or assessment/evaluation of:

(I) the member's general health, functional ability and needs and/or

(II) the adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides in accordance with rules and regulations for delegation of nursing tasks as established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the case manager may recommend authorization of Skilled Nursing services for the following:

(I) preparing a one-week supply of insulin syringes for a blind diabetic, who can safely self-inject the medication but cannot fill his/her own syringe. This service would include monitoring the member's continued ability to self-administer the insulin;

(II) preparing oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;

(III) monitoring a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence, or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;

(IV) providing nail care for the diabetic member or member with circulatory or neurological compromise;

(V) providing consultation and education to the member, member's family and/or other informal caregivers identified in the service plan, regarding the nature of the member's chronic condition. Provide skills training (including return skills demonstration to establish competency) to the member, family and/or other informal caregivers as specified in the

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service plan for preventive and rehabilitative care procedures.

(C) Nursing service can be billed for service plan development and/or assessment/evaluation services or, for other services within the scope of the Oklahoma Nursing Practice Act including private duty nursing. Nursing services are billed per 15-minute unit of service. A specific procedure code is used to bill for assessment/evaluation/service plan development skilled nursing services and other procedure codes are used to bill for all other authorized nursing services. A maximum of eight units per day of skilled nursing for assessment/evaluation and/or service plan development are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement, to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied if the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

**(7) Home Delivered Meals.**

(A) Home Delivered Meals provide one meal per day. A home delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one third of the Recommended Daily Allowance as established by the Food and Nutrition Board of the National Academy of Sciences. Meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home Delivered Meals are billed per meal, with one meal equaling one unit of service. The limit of the number of units a member is allowed to receive is limited on the member's plan of care. The provider must obtain a signature from the member or the member's representative at the time the meals are delivered. In the event that the member is temporarily unavailable (i.e., doctor's appointment, etc.) and the meal is left, the provider must document the reason a signature is not obtained. The signature logs must be available for review.

**(8) Occupational Therapy services.**

(A) Occupational Therapy services are those services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the therapeutic use of self-care, work and play activities and may include modification of the tasks or environment to enable the member to achieve maximum independence,

prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and develops an appropriate written therapeutic regimen. The regimen utilizes paraprofessional occupational therapy assistant services, within the limits of their practice, working under the supervision of the licensed occupational therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(9) Physical Therapy services.**

(A) Physical Therapy services are those services that prevent physical disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves use of physical therapeutic means such as massage, manipulation, therapeutic exercise, cold or heat therapy, hydrotherapy, electrical stimulation and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional physical therapy assistant services, within the limits of their practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical Therapy services are billed per 15-minute units of service. Payment is not allowed solely for written reports or record documentation.

**(10) Speech and Language Therapy services.**

(A) Speech/Language Therapy services are those that prevent speech and language communication disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Services involve use of therapeutic means such as evaluation, specialized treatment, and/or

development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed Speech/Language Pathologist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional therapy assistant services within the limits of their practice, working under the supervision of the licensed Speech/Language Pathologist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The Pathologist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Speech/Language Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(11) Respiratory Therapy Services.**

(A) Respiratory therapy services are provided for a member who, but for the availability of in-home respiratory services, would require respiratory care as an inpatient in a hospital or nursing facility. Services are provided in the member's home under the care of a physician who is familiar with the technical and medical components of home ventilator support and the physician must determine medically that in-home respiratory care is safe and feasible for the member. Treatment involves use of therapeutic means such as: evaluation, respiratory treatments, chest physiotherapy, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a registered respiratory therapist evaluates the member and develops an appropriate, written therapeutic regimen. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Respiratory Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(12) Hospice Services.**

(A) Hospice is palliative and/or comfort care provided to the member and his/her family when a physician certifies that the member has a terminal illness and has six months or less to live and orders hospice care. Medically Fragile Waiver Hospice Care is authorized for a six month period and requires a physician certification of a terminal illness and orders of hospice care. If the member requires more than six months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member

thirty days prior to the initial hospice authorization end date and re-certify that the member has a terminal illness and has six months or less to live and orders additional hospice care. After the initial authorization period, additional periods of hospice may be authorized for a maximum of 60 day increments with physician certification that the member has a terminal illness and has six months or less to live. A member's service plan that includes hospice care must comply with waiver requirements to be within total service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The member signs a statement choosing hospice care instead of routine medical care that has the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the terminal illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care services, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the member and/or family. A Hospice plan of care must be developed by the hospice team in conjunction with the member's case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. Hospice may be provided to the member in a Nursing Facility (NF) only when the member is placed in the NF for Medically Fragile Facility Based Extended Respite. Hospice provided as part of Facility Based Extended Respite may not be reimbursed for more than five days during any 30 day period. A member that is eligible for Medicare Hospice provided as a Medicare Part A benefit, is not eligible to receive Medically Fragile Hospice services.

(C) Hospice services are billed per diem of service for days covered by a Hospice plan of care and during which the hospice provider is responsible for providing hospice services as needed by the member or member's family.

**(13) Medically Fragile Waiver Personal Care.**

(A) Medically Fragile Personal Care is assistance to a member in carrying out activities of daily living such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry, to assure personal health and safety of the individual or to prevent or minimize physical health regression or deterioration.

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Personal Care services do not include service provision of a technical nature, i.e. tracheal suctioning, bladder catheterization, colostomy irrigation, and operation/maintenance of equipment of a technical nature.

(B) Medically Fragile Home Care Agency Skilled Nursing staff working in coordination with a Case Manager are responsible for development and monitoring of the member's Personal Care plan.

(C) Medically Fragile Personal Care services are prior authorized and billed per 15-minute unit of service with units of service limited to the number of units on the approved plan of care.

(14) **Personal Emergency Response System.**

(A) Personal Emergency Response System (PERS) is an electronic device which enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal, in accordance with member preference, a friend, a relative or a response center once a "help" button is activated. The response center is staffed by trained professionals. For an Medically Fragile Program member to be eligible to receive PERS service, the member must meet all of the following service criteria:

(i) a recent history of falls as a result of an existing medical condition that prevents the individual from getting up from a fall unassisted;

(ii) lives alone and has no regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;

(iii) demonstrates capability to comprehend the purpose of and activate the PERS;

(iv) has a health and safety plan detailing the interventions beyond the PERS to assure the member's health and safety in his/her home;

(v) has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and

(vi) the service avoids premature or unnecessary institutionalization of the member.

(B) PERS services are billed using the appropriate HCPC procedure code for installation, monthly service or purchase of PERS. All services are prior authorized in accordance with the Medically Fragile approved plan of care.

(15) **Prescription drugs.** Members are eligible for a maximum of six prescriptions per month with a limit of three brand name prescriptions. Seven additional generic prescriptions per month are allowed if medically necessary. Medically necessary prescriptions beyond the three brand name or thirteen total prescriptions will be covered with prior authorization. More information on prescription drugs is provided at 317:30-5-72.

(16) **Self-Direction.**

(A) Self-Direction is a method of service delivery that allows waiver members to determine supports and services they need to live successfully in a home or community based setting. A member choosing Self-Direction is the employer of record for his/her Personal Care and Advanced Supportive/Restorative Care service providers and must have an approved plan of care prior to initiation of any Self-Directed activities.

(B) The OHCA uses the following criteria to determine a member's service eligibility to participate in the Self-Directed Services program:

(i) residence in the Self-Directed services approved area;

(ii) member's health and safety with Self-Directed services can reasonably be assured based on a review of service history records and a review of member capacity and readiness to assume employer responsibilities under Self-Direction with any one of the following findings as basis to deny a request for Self-Direction due to inability to assure member health and safety:

(I) the member does not have the ability to make decisions about his/her care or service planning and the member's "authorized representative" is not willing to assume Self-Directed services responsibilities, or

(II) the member is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of Self-Direction such as in service planning, or in assuming the role of employer of the Personal Services Assistant (PSA) or Advanced Personal Services Assistant (APSA) service provider, or in monitoring and managing health or in preparation for emergency backup, or

(III) the member has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention within the past 12 months and does not have an "authorized representative" with capacity to assist with Self-Direction responsibilities;

(C) The member voluntarily makes an informed choice to Self-Direct services. As part of the informed choice, decision making process for Self-Direction, the OHCA staff or the Case Manager provides consultation and assistance as the member completes a self-assessment of preparedness to assume the role of employer for their Personal Services Assistant. The orientation and enrollment process will provide the member with a basic understanding of what will be expected of them under Self-Direction, the supports available to assist them to successfully perform employer responsibilities and an overview of the potential risks involved.

(D) The OHCA uses the following criteria to determine that based upon documentation, a person is no longer allowed to participate in the Self-Directed Services option:

- (i) the member does not have the ability to make decisions about his/her care or service planning and the member's "authorized representative" is not willing to assume Self-Direction responsibilities; or
- (ii) the member is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of Self-Direction such as in service planning, or in assuming the role of employer of the PSA or APSA service providers, or in monitoring and managing health or in preparation for emergency backup; or
- (iii) the member has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention and does not have an "authorized representative" with capacity to assist with Self-Direction responsibilities; or
- (iv) the member abuses or exploits their employee; or
- (v) the member falsifies time-sheets or other work records; or
- (vi) the member, even with Case Manager and Financial Management Services assistance, is unable to operate successfully within their Individual Budget Allocation; or
- (vii) inferior quality of services provided by member/employer's employee, or the inability of the member/employer's employee to provide the number of service units the member requires, jeopardizes the member's health and/or safety.

(E) The member may designate a family member or friend as an "authorized representative" to assist in the service planning process and in executing member employer responsibilities. If the member chooses to designate an "authorized representative", the designation and agreement identifying the "willing adult" to assume this role and responsibility is documented with dated signatures of the member, the designee and the member's Case Manager or the OHCA staff.

- (i) A person having guardianship or power of attorney or other court sanctioned authorization to make decisions on behalf of the member has legal standing to be the member's designated "authorized representative".
- (ii) An individual hired to provide Personal Services Assistance to a member may not be designated the "authorized representative" for the member.

(F) Self-Directed Services are delivered as authorized on the service plan and are limited to Personal Care, and Advanced Supportive/Restorative Care. The member employs the Personal Services Assistant (PSA) and/or the Advanced Personal Services Assistant (APSA) and is responsible, with assistance from

the Administrative Financial Management Services (FMS), for ensuring that the employment complies with State and Federal Labor Law requirements. The member:

- (i) recruits, hires and, as necessary, discharges the PSA and APSA;
- (ii) provides instruction and training to the PSA or APSA on tasks to be done and works with the Case Manager to obtain skilled nursing services assistance with training when necessary. Prior to performing an Advanced Personal Services Assistance task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member and the member must document the attendant's competency in performing each task in the APSA's personnel file;
- (iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within Individual Budget Allocation limits, wages to be paid for the work;
- (iv) supervises and documents employee work time; and,
- (v) provides tools and materials for work to be accomplished.

(G) Financial Management Services are program administrative services provided to participating Self-Directed Service employer/members by agencies contracted with the OHCA. Financial Management Services are employer related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:

- (i) employer payroll, at a minimum of semi monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;
- (ii) other employer related payment disbursements as agreed to with the member and in accordance with the member's Individual Budget Allocation;
- (iii) responsibility for obtaining criminal and abuse registry background checks, on behalf of the member, on prospective hires for PSAs or APSAs;
- (iv) providing to the member, as needed, assistance with employer related cognitive tasks, decision-making and specialized skills that may include assistance with Individual Budget Allocation planning and support for making decisions including training and providing reference material and consultation regarding employee management tasks such as recruiting, hiring, training and supervising the member's Personal Services Assistant or Advanced Personal Services Assistant; and

(H) The service of Personal Services Assistance is billed per 15-minute unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the Service Plan.

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(I) The service of Advanced Personal Services Assistance is billed per 15-minute unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the Service Plan.

(J) Self-Directed Services rates are determined using the Individual Budget Allocation (IBA) Expenditure Accounts Determination process for each member. The IBA Expenditure Accounts Determination process includes consideration and decisions about the following:

(i) The Individual Budget Allocation (IBA) Expenditure Accounts Determination constrains total SoonerCare reimbursement for Self-Directed services to be less than expenditures for equivalent services using agency providers.

(ii) The PSA and APSA service unit rates are calculated by the OHCA during the Self-Directed service eligibility determination process. The OHCA sets the PSA and APSA unit rates at a level that is not less than 80 percent and not more than 95 percent of the comparable Agency Personal Care (for PSA) or Advanced Supportive/Restorative (for APSA) service rate. The allocation of portions of the PSA and/or APSA rate to cover salary, mandatory taxes, and optional benefits (including Worker's Compensation insurance, if available) is determined individually for each member using the Self-Directed Services Individualized Budget Allocation Expenditure Accounts Determination Process.

(iii) The IBA Expenditure Accounts Determination process defines the level of program financial resources required to meet the member's need for Self-Directed services. If the member's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources, the Case Manager, based upon an updated assessment, amends the service plan to increase Self-Directed service units appropriate to meet additional member need. The OHCA, upon favorable review, authorizes the amended plan and updates the member's IBA. Service amendments based on changes in member need for services do not change an existing PSA or APSA rate. The member, with assistance from the FMS, reviews and revises the IBA Expenditure Accounts calculation annually or more often to the extent appropriate and necessary.

### **SUBCHAPTER 3. MY LIFE, MY CHOICE WAIVER SERVICES**

#### **317:50-3-14. Description of services**

Services included in the My Life, My Choice Waiver Program are as follows:

##### **(1) Case Management.**

(A) Case Management services are services that assist a member in gaining access to medical, social, educational or other services, regardless of payment source of services, that may benefit the member in maintaining health and safety. Case managers initiate and oversee necessary assessments and reassessments to establish or reestablish Waiver program eligibility. Case managers develop the member's comprehensive plan of care, listing only services which are necessary to prevent institutionalization of the member, as determined through assessments. Case managers initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support. Case managers monitor the member's condition to ensure delivery and appropriateness of services and initiate plan of care reviews. If a member requires hospital or nursing facility services, the case manager assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay and helps the member transition from institution to home by updating the service plan and preparing services to start on the date the member is discharged from the institution. Case Managers must meet My Life, My Choice Waiver Program minimum requirements for qualification and training prior to providing services to members. Prior to providing services to members choosing to Self-Direct their services, Case Managers are required to receive training and demonstrate knowledge regarding the Self-Directed Service delivery model.

(B) Providers may only claim time for billable Case Management activities described as follows:

(i) A billable case management activity is any task or function defined under OAC 317:50-3-14(1)(A) that only a My Life, My Choice case manager because of skill, training or authority, can perform on behalf of a member;

(ii) Ancillary activities such as clerical tasks like mailing, copying, filing, faxing, drive time or supervisory/administrative activities are not billable case management activities, although the administrative cost of these activities and other normal and customary business overhead costs have been included in the reimbursement rate for billable activities.

(C) Case Management services are prior authorized and billed per 15-minute unit of service using the rate associated with the location of residence of the member served.

(i) Standard Rate: Case Management services are billed using a Standard rate for reimbursement for billable service activities provided to a member who resides in a county with population density greater than 25 persons per square mile.

(ii) Very Rural/Difficult Service Area Rate: Case Management services are billed using a Very Rural/Difficult Service Area rate for billable

- service activities provided to a member who resides in a county with population density equal to or less than 25 persons per square mile. An exception would be services to members that reside in OHCA identified zip codes in Osage County adjacent to metropolitan areas of Tulsa and Washington Counties. Services to these members are prior authorized and billed using the Standard rate.
- (iii) The latest United States Census, Oklahoma Counties population data is the source for determination of whether a member resides in a county with a population density equal to or less than 25 persons per square mile, or resides in a county with a population density greater than 25 persons per square mile.
- (2) **Respite.**
- (A) Respite services are provided to members who are unable to care for themselves. They are provided on a short-term basis because of the absence or need for relief of the primary caregiver. Payment for respite care does not include room and board costs unless more than seven hours are provided in a nursing facility. Respite care will only be utilized when other sources of care and support have been exhausted. Respite care will only be listed on the plan of care when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the plan of care.
- (B) In-Home Respite services are billed per 15-minute unit service. Within any one-day period, a minimum of eight units must be provided with a maximum of 28 units provided. The service is provided in the member's home.
- (C) Facility-Based Extended Respite is filed for a per diem rate, if provided in Nursing Facility. Extended Respite must be at least eight hours in duration.
- (D) In-Home Extended Respite is filed for a per diem rate. A minimum of eight hours must be provided in the member's home.
- (3) **Environmental Modifications.**
- (A) Environmental Modifications are physical adaptations to the home, required by the member's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home and without which, the member would require institutionalization. Adaptations or improvements to the home which are not of direct medical or remedial benefit to the Waiver member are excluded.
- (B) All services require prior authorization.
- (4) **Specialized Medical Equipment and Supplies.**
- (A) Specialized Medical Equipment and Supplies are devices, controls, or appliances specified in the plan of care, which enable members to increase their
- abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. Also included are items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid state plan. This service excludes any equipment and/or supply items which are not of direct medical or remedial benefit to the Waiver member. This service is necessary to prevent institutionalization.
- (B) Specialized Medical Equipment and Supplies are billed using the appropriate HCPC procedure code. Reoccurring supplies which are shipped to the member are compensable only when the member remains eligible for Waiver services, continues to reside in the home and is not institutionalized in a hospital or nursing home. It is the provider's responsibility to verify the member's status prior to shipping these items. Payment for medical supplies is limited to the Medicare rate, or the SoonerCare rate, or actual acquisition cost plus 30 percent.
- (5) **Advanced Supportive/Restorative Assistance.**
- (A) Advanced Supportive/Restorative Assistance services are maintenance services to assist a member who has a chronic, yet stable, condition. These services assist with activities of daily living which require devices and procedures related to altered body functions. This service is for maintenance only and is not utilized as a treatment service.
- (B) Advanced Supportive/Restorative Assistance service is billed per 15-minute unit of service. The number of units of this service a member may receive is limited to the number of units approved on the plan of care.
- (6) **Nursing.**
- (A) Nursing services are services listed in the plan of care which are within the scope of the Oklahoma Nursing Practice Act and are provided by a registered professional nurse, or licensed practical or vocational nurse under the supervision of a registered nurse, licensed to practice in the State. Nursing services include skilled nursing and/or private duty nursing. Skilled nursing is provided on an intermittent or part-time basis. Private duty nursing is individual and continuous care provided to a participant at home by licensed nurses. The provision of the nursing service will work to prevent or postpone the institutionalization of the member.
- (B) Nursing services are services of a maintenance or preventive nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services which would be reimbursable under either Medicaid or Medicare's Home Health Program. This service primarily provides nurse supervision to the Personal Care Assistant or to the Advanced Supportive/Restorative Assistance Aide and assesses the

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member's health and prescribed medical services to ensure that they meet the member's needs as specified in the plan of care. A skilled nursing assessment/evaluation on-site visit is made to each member for whom Advanced Supportive/Restorative Assistance services are authorized to evaluate the condition of the member and medical appropriateness of services. An assessment/evaluation visit report will be made to the My Life, My Choice Waiver case manager in accordance with review schedule determined in consultation between the Case Manager and the Skilled Nurse, to report the member's condition or other significant information concerning each advanced supportive/restorative care member.

(i) The case manager may recommend authorization of Skilled Nursing services as part of the interdisciplinary team planning for the member's service plan and/or assessment/evaluation of:

(I) the member's general health, functional ability and needs and/or

(II) the adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides in accordance with rules and regulations for delegation of nursing tasks as established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the case manager may recommend authorization of Skilled Nursing services for the following:

(I) preparing a one-week supply of insulin syringes for a blind diabetic, who can safely self-inject the medication but cannot fill his/her own syringe. This service would include monitoring the member's continued ability to self-administer the insulin;

(II) preparing oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;

(III) monitoring a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence, or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;

(IV) providing nail care for the diabetic member or member with circulatory or neurological compromise;

(V) providing consultation and education to the member, member's family and/or other informal caregivers identified in the service plan, regarding the nature of the member's chronic condition. Provide skills training (including return skills demonstration to establish competency) to the member, family and/or

other informal caregivers as specified in the service plan for preventive and rehabilitative care procedures.

(C) Nursing service can be billed for service plan development and/or assessment/evaluation services or, for other services within the scope of the Oklahoma Nursing Practice Act including private duty nursing. Nursing services are billed per 15-minute unit of service. A specific procedure code is used to bill for assessment/evaluation/service plan development skilled nursing services and other procedure codes are used to bill for all other authorized nursing services. A maximum of eight units per day of skilled nursing for assessment/evaluation and/or service plan development are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement, to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied if the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

**(7) Home Delivered Meals.**

(A) Home Delivered Meals provide one meal per day. A home delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one third of the Recommended Daily Allowance as established by the Food and Nutrition Board of the National Academy of Sciences. Meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home Delivered Meals are billed per meal, with one meal equaling one unit of service. The limit of the number of units a member is allowed to receive is limited on the member's plan of care. The provider must obtain a signature from the member or the member's representative at the time the meals are delivered. In the event that the member is temporarily unavailable (i.e., doctor's appointment, etc.) and the meal is left, the provider must document the reason a signature is not obtained. The signature logs must be available for review.

**(8) Occupational Therapy services.**

(A) Occupational Therapy services are those services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the therapeutic use of self-care, work and play activities and may include modification of the tasks or environment to enable the member to achieve maximum independence.

prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and develops an appropriate written therapeutic regimen. The regimen utilizes paraprofessional occupational therapy assistant services, within the limits of their practice, working under the supervision of the licensed occupational therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(9) Physical Therapy services.**

(A) Physical Therapy services are those services that prevent physical disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves use of physical therapeutic means such as massage, manipulation, therapeutic exercise, cold or heat therapy, hydrotherapy, electrical stimulation and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional physical therapy assistant services, within the limits of their practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical Therapy services are billed per 15-minute units of service. Payment is not allowed solely for written reports or record documentation.

**(10) Speech and Language Therapy services.**

(A) Speech/Language Therapy services are those that prevent speech and language communication disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Services involve use of therapeutic means such as evaluation, specialized treatment, and/or

development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed Speech/Language Pathologist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional therapy assistant services within the limits of their practice, working under the supervision of the licensed Speech/Language Pathologist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The Pathologist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Speech/Language Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(11) Respiratory Therapy services.**

(A) Respiratory therapy services are provided for a member who, but for the availability of in-home respiratory services, would require respiratory care as an inpatient in a hospital or nursing facility. Services are provided in the member's home under the care of a physician who is familiar with the technical and medical components of home ventilator support and the physician must determine medically that in-home respiratory care is safe and feasible for the member. Treatment involves use of therapeutic means such as: evaluation, respiratory treatments, chest physiotherapy, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a registered respiratory therapist evaluates the member and develops an appropriate, written therapeutic regimen. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Respiratory Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(12) Hospice services.**

(A) Hospice is palliative and/or comfort care provided to the member and his/her family when a physician certifies that the member has a terminal illness and has six months or less to live and orders hospice Care. My Life, My Choice Hospice Care is authorized for a six month period and requires a physician certification of a terminal illness and orders of hospice care. If the member requires more than six months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member thirty days

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prior to the initial hospice authorization end date and re-certify that the member has a terminal illness and has six months or less to live and orders additional hospice care. After the initial authorization period, additional periods of hospice may be authorized for a maximum of 60 day increments with physician certification that the member has a terminal illness and has six months or less to live. A member's service plan that includes hospice care must comply with waiver requirements to be within total service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The member signs a statement choosing hospice care instead of routine medical care that has the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the terminal illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care services, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the member and/or family. A Hospice plan of care must be developed by the hospice team in conjunction with the member's case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. Hospice may be provided to the member in a Nursing Facility (NF) only when the member is placed in the NF for My Life, My Choice Facility Based Extended Respite. Hospice provided as part of Facility Based Extended respite may not be reimbursed for more than five days during any 30 day period. A member that is eligible for Medicare Hospice provided as a Medicare Part A benefit, is not eligible to receive My Life, My Choice Hospice services.

(C) Hospice services are billed per diem of service for days covered by a Hospice plan of care and during which the hospice provider is responsible for providing hospice services as needed by the member or member's family.

**(13) My Life, My Choice Waiver Personal Care.**

(A) My Life, My Choice Personal Care is assistance to a member in carrying out activities of daily living such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry, to assure

personal health and safety of the individual or to prevent or minimize physical health regression or deterioration. Personal Care services do not include service provision of a technical nature, i.e. tracheal suctioning, bladder catheterization, colostomy irrigation, and operation/maintenance of equipment of a technical nature.

(B) My Life, My Choice Home Care Agency Skilled Nursing staff working in coordination with a Case Manager are responsible for development and monitoring of the member's Personal Care plan.

(C) My Life, My Choice Personal Care services are prior authorized and billed per 15-minute unit of service with units of service limited to the number of units on the approved plan of care.

**(14) Adult Day Health.** Adult Day Health services are scheduled for one or more days per week, in a community setting, encompassing both health and social services needed in order to provide optimal functioning of the member. Transportation between the member's place of residence and the adult day facility is provided and is included in the rate paid to providers of adult day health services.

**(15) Assistive Technology.** Assistive technology enables the member to maintain or increase functional capabilities. Assistive technology devices are in addition to equipment and supplies readily available through traditional State Plan services and exclude items that are not of direct medical or remedial benefit to the member. Assistive technology includes the purchase, rental, customization, maintenance and repair of such devices.

**(16) Audiology Treatment and Evaluation.** Services include evaluation, treatment and consultation related to auditory functioning and are intended to maximize the member's hearing abilities.

**(17) Agency Companion.** Agency companion services provide a living arrangement developed to meet the specific needs of the member that include a live-in companion providing supervision, supportive assistance, and training in daily living skills provided in a shared home owned or rented by the member, companion, or in a mutually rented or owned home;

**(18) Dental services.** Dental services include maintenance or improvement of dental health as well as relief of pain and infection. Coverage of dental services may not exceed \$1,000 per plan year of care. These services may include:

- (A) oral examination;
- (B) bite-wing x-rays;
- (C) prophylaxis;
- (D) topical fluoride treatment;
- (E) development of a sequenced treatment plan that prioritizes:
  - (i) elimination of pain;
  - (ii) adequate oral hygiene; and
  - (iii) restoration or improved ability to chew;
- (F) routine training of member or primary caregiver regarding oral hygiene; and

(G) preventive restorative, replacement and repair services to achieve or restore functionality are provided after appropriate review if applicable.

(19) **Family Training.** Family training services are for families of the member being served through the waiver. For purposes of this service, "family" is defined as the persons who live with or provide care to a waiver member and may include a parent, spouse, children relatives, foster family or in-laws. Training includes instruction for the family member in skills and knowledge pertaining to the support and assistance of the waiver member. This training is specific to an individual member's needs. It is intended to allow the member's family to become more proficient in meeting the needs of the member. Specific family training services are included in the member's service plan.

(20) **Family Counseling.** Family counseling helps to develop and maintain healthy, stable relationships among all family members in order to support meeting the needs of the member. Emphasis is placed on the acquisition of coping skills by building upon family strengths. Knowledge and skills gained through family counseling services increase the likelihood that the member remains in or returns to his or her own home. Services are intended to maximize the member/family's emotional/social adjustment and well-being. All family counseling needs are documented in the member's plan of care. Individual counseling cannot exceed 400, 15-minute units per plan of care year. Group counseling cannot exceed 225, 30-minute units per plan of care year. Case Managers assist the member to identify other alternatives to meet identified needs above the limit.

(21) **Nutritional Education services.** Nutritional Education services focus on assisting the member and/or primary caregiver with the dietary aspects of the member's disease management. These services include dietary evaluation and consultation with individuals or their care provider. Services are provided in the member's home or when appropriate in a class situation. Services are intended to maximize the individual's nutritional health. Services must be expressly for diagnosing, treating or preventing, or minimizing the effects of illness.

(22) **Vision services.** Vision services must be listed in the member's plan of care and include a routine eye examination for the purpose of prescribing glasses or visual aids, determination of refractive state, treatment of refractive errors or purchase of glasses to include lenses and frames; exceptions are made on the individual basis as deemed medically necessary. Amount, frequency and duration of services is prior authorized in accordance with the member's service plan, with a limit of one pair of glasses to include lenses and frames annually.

(23) **Independent Living Skills training.** Independent living skills training is a service to support the individual's self care, daily living, adaptive skills and leisure skills needed to reside successfully in the community. Services are provided in community based settings in a manner

that contributes to the individual's independence, self sufficiency, community inclusion and well being. This service is intended to train members with significant cognitive problems living skills such as selecting clothing, dressing, and personal shopping.

(24) **Personal Emergency Response System.**

(A) Personal Emergency Response System (PERS) is an electronic device which enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal, in accordance with member preference, a friend, a relative or a response center once a "help" button is activated. The response center is staffed by trained professionals. For a My Life, My Choice Program member to be eligible to receive PERS service, the member must meet all of the following service criteria:

(i) a recent history of falls as a result of an existing medical condition that prevents the individual from getting up from a fall unassisted;

(ii) lives alone and has no regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;

(iii) demonstrates capability to comprehend the purpose of and activate the PERS;

(iv) has a health and safety plan detailing the interventions beyond the PERS to assure the member's health and safety in his/her home;

(v) has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and,

(vi) the service avoids premature or unnecessary institutionalization of the member.

(B) PERS services are billed using the appropriate HCPC procedure code for installation, monthly service or purchase of PERS. All services are prior authorized in accordance with the My Life, My Choice approved plan of care.

(25) **Prescription drugs.** Members are eligible for a maximum of six prescriptions per month with a limit of three brand name prescriptions. Seven additional generic prescriptions per month are allowed if medically necessary. Medically necessary prescriptions beyond the three brand name or thirteen total prescriptions will be covered with prior authorization. More information on prescription drugs is provided at 317:30-5-72.

(26) **Psychiatry.** Psychiatry provides outpatient psychiatric services provided by a licensed psychiatrist and will be comprised of diagnosis, treatment and prevention of mental illness. These services will also include review, assessment and monitoring of psychiatric conditions, evaluation of the current plan of treatment and recommendations for a continued and/or revised plan of treatment

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and/or therapy, including required documentation. Psychiatrists may provide instruction and training to individuals, family members, case management staff and/or provider staff in recognition of psychiatric illness and adverse reactions to medications.

**(27) Psychological services.** Psychological services include evaluation, psychotherapy, consultation and behavioral treatment. Services are provided in any community setting as specified in the member's service plan. Services are intended to maximize the member's psychological and behavioral well-being. Services are provided in both individual and group (8 person maximum) formats. The OHCA Care Management Team will review service plans to ensure that duplication of services does not occur.

**(28) Pharmacological Evaluations.** Pharmacological evaluations are provided to waiver members to ensure proper management of medications. The evaluations consist of:

**(A)** An initial medication assessment performed in conjunction with the case manager and member.

**(B)** A written report after completion of both the initial visit and medication assessment to be provided to the case manager and prescribing physician(s). The report will contain the initial medication assessment and recommendations when appropriate.

**(C)** Follow-up visit, assessments and reports will be arranged with the case manager every four months after the initial visits, assessment and report for the first year the member is in the community. This will result in a total of three follow-up visits, assessments and reports per member.

**(29) Non-emergency Transportation.** Non-emergency, non-ambulance transportation services are available through the SoonerRide Non-Emergency Transportation (NET) program. SoonerRide NET is available on a statewide basis to all eligible members. SoonerRide NET includes non-emergency, non-ambulance transportation for members to and from SoonerCare providers of health care services. The NET must be for the purpose of accessing medically necessary covered services for which a member has available benefits. Additionally, SoonerRide NET may also be provided for eligible members to providers other than SoonerCare providers if the transportation is to access medically necessary services covered by SoonerCare. More information on SoonerRide NET services is located at 317:30-5-326.

**(30) Self-Direction.**

**(A)** Self-Direction is a method of service delivery that allows waiver members to determine supports and services they need to live successfully in a home or community based setting. A member choosing Self-Direction is the employer of record for his/her Personal Care and Advanced Supportive/Restorative Care service providers and must have an approved plan of care prior to initiation of any Self-Directed activities.

**(B)** The OHCA uses the following criteria to determine a member's service eligibility to participate in the Self-Directed Services program:

**(i)** residence in the Self-Directed services approved area;

**(ii)** member's health and safety with Self-Directed services can reasonably be assured based on a review of service history records and a review of member capacity and readiness to assume employer responsibilities under Self-Direction with any one of the following findings as basis to deny a request for Self-Direction due to inability to assure member health and safety;

**(I)** the member does not have the ability to make decisions about his/her care or service planning and the member's "authorized representative" is not willing to assume Self-Directed services responsibilities, or

**(II)** the member is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of Self-Direction such as in service planning, or in assuming the role of employer of the Personal Services Assistant (PSA) or Advanced Personal Services Assistant (APSA) service provider, or in monitoring and managing health or in preparation for emergency backup, or

**(III)** the member has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention within the past 12 months and does not have an "authorized representative" with capacity to assist with Self-Direction responsibilities;

**(C)** The member voluntarily makes an informed choice to Self-Direct services. As part of the informed choice, decision making process for Self-Direction, the OHCA staff or the Case Manager provides consultation and assistance as the member completes a self-assessment of preparedness to assume the role of employer for their Personal Services Assistant. The orientation and enrollment process will provide the member with a basic understanding of what will be expected of them under Self-Direction, the supports available to assist them to successfully perform employer responsibilities and an overview of the potential risks involved.

**(D)** The OHCA uses the following criteria to determine that based upon documentation, a person is no longer allowed to participate in the Self-Directed Services option:

**(i)** the member does not have the ability to make decisions about his/her care or service planning and the member's "authorized representative" is not willing to assume Self-Direction responsibilities; or

- (ii) the member is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of Self-Direction such as in service planning, or in assuming the role of employer of the PSA or APSA service providers, or in monitoring and managing health or in preparation for emergency backup; or
  - (iii) the member has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention and does not have an "authorized representative" with capacity to assist with Self-Direction responsibilities; or
  - (iv) the member abuses or exploits their employee; or
  - (v) the member falsifies time-sheets or other work records; or
  - (vi) the member, even with Case Manager and Financial Management Services assistance, is unable to operate successfully within their Individual Budget Allocation; or
  - (vii) inferior quality of services provided by member/employer's employee, or the inability of the member/employer's employee to provide the number of service units the member requires, jeopardizes the member's health and/or safety.
- (E) The member may designate a family member or friend as an "authorized representative" to assist in the service planning process and in executing member employer responsibilities. If the member chooses to designate an "authorized representative", the designation and agreement identifying the "willing adult" to assume this role and responsibility is documented with dated signatures of the member, the designee and the member's Case Manager or the OHCA staff.
  - (i) A person having guardianship or power of attorney or other court sanctioned authorization to make decisions on behalf of the member has legal standing to be the member's designated "authorized representative".
  - (ii) An individual hired to provide Personal Services Assistance to a member may not be designated the "authorized representative" for the member.
- (F) Self-Directed Services are delivered as authorized on the service plan and are limited to Personal Care, Advanced Supportive/Restorative Care and Respite. The member employs the Personal Services Assistant (PSA) and/or the Advanced Personal Services Assistant (APSA) and is responsible, with assistance from the Administrative Financial Management Services (FMS), for ensuring that the employment complies with State and Federal Labor Law requirements. The member:
  - (i) recruits, hires and, as necessary, discharges the PSA and APSA;
  - (ii) provides instruction and training to the PSA or APSA on tasks to be done and works with the Case Manager to obtain skilled nursing

- services assistance with training when necessary. Prior to performing an Advanced Personal Services Assistance task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member and the member must document the attendant's competency in performing each task in the APSA's personnel file;
  - (iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within Individual Budget Allocation limits, wages to be paid for the work;
  - (iv) supervises and documents employee work time; and,
  - (v) provides tools and materials for work to be accomplished.
- (G) Financial Management Services are program administrative services provided to participating Self-Directed Service employer/members by agencies contracted with the OHCA. Financial Management Services are employer related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:
  - (i) employer payroll, at a minimum of semi monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;
  - (ii) other employer related payment disbursements as agreed to with the member and in accordance with the member's Individual Budget Allocation;
  - (iii) responsibility for obtaining criminal and abuse registry background checks, on behalf of the member, on prospective hires for PSAs or APSAs;
  - (iv) providing to the member, as needed, assistance with employer related cognitive tasks, decision-making and specialized skills that may include assistance with Individual Budget Allocation planning and support for making decisions including training and providing reference material and consultation regarding employee management tasks such as recruiting, hiring, training and supervising the member's Personal Services Assistant or Advanced Personal Services Assistant; and
- (H) The service of Personal Services Assistance is billed per 15-minute unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the Service Plan.
- (I) The service of Advanced Personal Services Assistance is billed per 15-minute unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the Service Plan.
- (J) Self-Directed Services rates are determined using the Individual Budget Allocation (IBA) Expenditure Accounts Determination process for each member. The IBA Expenditure Accounts Determination

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process includes consideration and decisions about the following:

(i) The Individual Budget Allocation (IBA) Expenditure Accounts Determination constrains total SoonerCare reimbursement for Self-Directed services to be less than expenditures for equivalent services using agency providers.

(ii) The PSA and APSA service unit rates are calculated by the OHCA during the Self-Directed service eligibility determination process. The OHCA sets the PSA and APSA unit rates at a level that is not less than 80 percent and not more than 95 percent of the comparable Agency Personal Care (for PSA) or Advanced Supportive/Restorative (for APSA) service rate. The allocation of portions of the PSA and/or APSA rate to cover salary, mandatory taxes, and optional benefits (including Worker's Compensation insurance, if available) is determined individually for each member using the Self-Directed Services Individualized Budget Allocation Expenditure Accounts Determination Process.

(iii) The IBA Expenditure Accounts Determination process defines the level of program financial resources required to meet the member's need for Self-Directed services. If the member's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources, the Case Manager, based upon an updated assessment, amends the service plan to increase Self-Directed service units appropriate to meet additional member need. The OHCA, upon favorable review, authorizes the amended plan and updates the member's IBA. Service amendments based on changes in member need for services do not change an existing PSA or APSA rate. The member, with assistance from the FMS, reviews and revises the IBA Expenditure Accounts calculation annually or more often to the extent appropriate and necessary.

### **SUBCHAPTER 5. SOONER SENIORS WAIVER SERVICES**

#### **317:50-5-14. Description of services**

Services included in the Sooner Seniors Waiver Program are as follows:

##### **(1) Case Management.**

(A) Case Management services are services that assist a member in gaining access to medical, social, educational or other services, regardless of payment source of services, that may benefit the member in maintaining health and safety. Case managers initiate and oversee necessary assessments and reassessments to establish or reestablish Waiver program eligibility. Case managers develop the member's comprehensive plan of care, listing only services which are necessary

to prevent institutionalization of the member, as determined through assessments. Case managers initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support. Case managers monitor the member's condition to ensure delivery and appropriateness of services and initiate plan of care reviews. If a member requires hospital or nursing facility services, the case manager assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay and helps the member transition from institution to home by updating the service plan and preparing services to start on the date the member is discharged from the institution. Case Managers must meet Sooner Seniors Waiver Program minimum requirements for qualification and training prior to providing services to members. Prior to providing services to members choosing to Self-Direct their services, Case Managers are required to receive training and demonstrate knowledge regarding the Self-Directed Service delivery model.

(B) Providers may only claim time for billable Case Management activities described as follows:

(i) A billable case management activity is any task or function defined under OAC 317:50-5-14(1)(A) that only a Sooner Seniors case manager because of skill, training or authority, can perform on behalf of a member;

(ii) Ancillary activities such as clerical tasks like mailing, copying, filing, faxing, drive time or supervisory/administrative activities are not billable case management activities, although the administrative cost of these activities and other normal and customary business overhead costs have been included in the reimbursement rate for billable activities.

(C) Case Management services are prior authorized and billed per 15-minute unit of service using the rate associated with the location of residence of the member served.

(i) Standard Rate: Case Management services are billed using a Standard rate for reimbursement for billable service activities provided to a member who resides in a county with population density greater than 25 persons per square mile.

(ii) Very Rural/Difficult Service Area Rate: Case Management services are billed using a Very Rural/Difficult Service Area rate for billable service activities provided to a member who resides in a county with population density equal to or less than 25 persons per square mile. An exception would be services to members that reside in OHCA identified zip codes in Osage County adjacent to metropolitan areas of Tulsa and Washington Counties. Services to these members are prior authorized and billed using the Standard rate.

- (iii) The latest United States Census, Oklahoma Counties population data is the source for determination of whether a member resides in a county with a population density equal to or less than 25 persons per square mile, or resides in a county with a population density greater than 25 persons per square mile.
- (2) **Respite.**
- (A) Respite services are provided to members who are unable to care for themselves. They are provided on a short-term basis because of the absence or need for relief of the primary caregiver. Payment for respite care does not include room and board costs unless more than seven hours are provided in a nursing facility. Respite care will only be utilized when other sources of care and support have been exhausted. Respite care will only be listed on the plan of care when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the plan of care.
- (B) In-Home Respite services are billed per 15-minute unit service. Within any one-day period, a minimum of eight units must be provided with a maximum of 28 units provided. The service is provided in the member's home.
- (C) Facility-Based Extended Respite is filed for a per diem rate, if provided in Nursing Facility. Extended Respite must be at least eight hours in duration.
- (D) In-Home Extended Respite is filed for a per diem rate. A minimum of eight hours must be provided in the member's home.
- (3) **Environmental Modifications.**
- (A) Environmental Modifications are physical adaptations to the home, required by the member's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home and without which, the member would require institutionalization. Adaptations or improvements to the home which are not of direct medical or remedial benefit to the Waiver member are excluded.
- (B) All services require prior authorization.
- (4) **Specialized Medical Equipment and Supplies.**
- (A) Specialized Medical Equipment and Supplies are devices, controls, or appliances specified in the plan of care, which enable members to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. Also included are items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid state plan. This service excludes any equipment and/or supply items which are not of direct medical or remedial benefit to the
- Waiver member. This service is necessary to prevent institutionalization.
- (B) Specialized Medical Equipment and Supplies are billed using the appropriate HCPC procedure code. Reoccurring supplies which are shipped to the member are compensable only when the member remains eligible for Waiver services, continues to reside in the home and is not institutionalized in a hospital or nursing home. It is the provider's responsibility to verify the member's status prior to shipping these items. Payment for medical supplies is limited to the Medicare rate, or the SoonerCare rate, or actual acquisition cost plus 30 percent.
- (5) **Advanced Supportive/Restorative Assistance.**
- (A) Advanced Supportive/Restorative Assistance services are maintenance services to assist a member who has a chronic, yet stable, condition. These services assist with activities of daily living which require devices and procedures related to altered body functions. This service is for maintenance only and is not utilized as a treatment service.
- (B) Advanced Supportive/Restorative Assistance service is billed per 15-minute unit of service. The number of units of this service a member may receive is limited to the number of units approved on the plan of care.
- (6) **Nursing.**
- (A) Nursing services are services listed in the plan of care which are within the scope of the Oklahoma Nursing Practice Act and are provided by a registered professional nurse, or licensed practical or vocational nurse under the supervision of a registered nurse, licensed to practice in the State. Nursing services include skilled nursing and/or private duty nursing. Skilled nursing is provided on an intermittent or part-time basis. Private duty nursing is individual and continuous care provided to a participant at home by licensed nurses. The provision of the nursing service will work to prevent or postpone the institutionalization of the member.
- (B) Nursing services are services of a maintenance or preventive nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services which would be reimbursable under either Medicaid or Medicare's Home Health Program. This service primarily provides nurse supervision to the Personal Care Assistant or to the Advanced Supportive/Restorative Assistance Aide and assesses the member's health and prescribed medical services to ensure that they meet the member's needs as specified in the plan of care. A skilled nursing assessment/evaluation on-site visit is made to each member for whom Advanced Supportive/Restorative Assistance services are authorized to evaluate the condition of the member and medical appropriateness of services. An assessment/evaluation visit report will be made to the Sooner Seniors Waiver

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case manager in accordance with review schedule determined in consultation between the Case Manager and the Skilled Nurse, to report the member's condition or other significant information concerning each advanced supportive/restorative care member.

(i) The case manager may recommend authorization of Skilled Nursing services as part of the interdisciplinary team planning for the member's service plan and/or assessment/evaluation of:

(I) the member's general health, functional ability and needs and/or

(II) the adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides in accordance with rules and regulations for delegation of nursing tasks as established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the case manager may recommend authorization of Skilled Nursing services for the following:

(I) preparing a one-week supply of insulin syringes for a blind diabetic, who can safely self-inject the medication but cannot fill his/her own syringe. This service would include monitoring the member's continued ability to self-administer the insulin;

(II) preparing oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;

(III) monitoring a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence, or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;

(IV) providing nail care for the diabetic member or member with circulatory or neurological compromise;

(V) providing consultation and education to the member, member's family and/or other informal caregivers identified in the service plan, regarding the nature of the member's chronic condition. Provide skills training (including return skills demonstration to establish competency) to the member, family and/or other informal caregivers as specified in the service plan for preventive and rehabilitative care procedures.

(C) Nursing service can be billed for service plan development and/or assessment/evaluation services or, for other services within the scope of the Oklahoma Nursing Practice Act including private duty nursing. Nursing services are billed per 15-minute unit of service. A specific procedure code is used to

bill for assessment/evaluation/service plan development skilled nursing services and other procedure codes are used to bill for all other authorized nursing services. A maximum of eight units per day of skilled nursing for assessment/evaluation and/or service plan development are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement, to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied if the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

**(7) Home Delivered Meals.**

(A) Home Delivered Meals provide one meal per day. A home delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one third of the Recommended Daily Allowance as established by the Food and Nutrition Board of the National Academy of Sciences. Meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home Delivered Meals are billed per meal, with one meal equaling one unit of service. The limit of the number of units a member is allowed to receive is limited on the member's plan of care. The provider must obtain a signature from the member or the member's representative at the time the meals are delivered. In the event that the member is temporarily unavailable (i.e., doctor's appointment, etc.) and the meal is left, the provider must document the reason a signature is not obtained. The signature logs must be available for review.

**(8) Occupational Therapy services.**

(A) Occupational Therapy services are those services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the therapeutic use of self-care, work and play activities and may include modification of the tasks or environment to enable the member to achieve maximum independence, prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and develops an appropriate written therapeutic regimen. The regimen utilizes paraprofessional occupational therapy assistant services, within the limits of their practice, working under the supervision of the licensed occupational therapist. The regimen includes

education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(9) Physical Therapy services.**

(A) Physical Therapy services are those services that prevent physical disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves use of physical therapeutic means such as massage, manipulation, therapeutic exercise, cold or heat therapy, hydrotherapy, electrical stimulation and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional physical therapy assistant services, within the limits of their practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical Therapy services are billed per 15-minute units of service. Payment is not allowed solely for written reports or record documentation.

**(10) Speech and Language Therapy services.**

(A) Speech/Language Therapy services are those that prevent speech and language communication disability through the evaluation and rehabilitation of members disabled by pain, disease or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Services involve use of therapeutic means such as evaluation, specialized treatment, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed Speech/Language Pathologist evaluates the member's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional therapy assistant services within the limits of their practice, working under the supervision of the licensed Speech/Language Pathologist.

The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The Pathologist will ensure monitoring and documentation of the member's rehabilitative progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Speech/Language Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(11) Respiratory therapy services.**

(A) Respiratory therapy services are provided for a member who, but for the availability of in-home respiratory services, would require respiratory care as an inpatient in a hospital or nursing facility. Services are provided in the member's home under the care of a physician who is familiar with the technical and medical components of home ventilator support and the physician must determine medically that in-home respiratory care is safe and feasible for the member. Treatment involved s use of therapeutic means such as: evaluation, respiratory treatments, chest physiotherapy, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a registered respiratory therapist evaluates the member and develops an appropriate, written therapeutic regimen. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the member's progress and will report to the member's case manager and physician to coordinate necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Respiratory Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

**(12) Hospice services.**

(A) Hospice is palliative and/or comfort care provided to the member and his/her family when a physician certifies that the member has a terminal illness and has six months or less to live and orders hospice Care. Sooner Seniors Hospice Care is authorized for a six month period and requires a physician certification of a terminal illness and orders of hospice care. If the member requires more than six months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member thirty days prior to the initial hospice authorization end date and re-certify that the member has a terminal illness and has six months or less to live and orders additional hospice care. After the initial authorization period, additional periods of hospice may be authorized for a maximum of 60 day increments with physician certification that the member has a terminal illness and has six months

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or less to live. A member's service plan that includes hospice care must comply with waiver requirements to be within total service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The member signs a statement choosing hospice care instead of routine medical care that has the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the terminal illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care services, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the member and/or family. A Hospice plan of care must be developed by the hospice team in conjunction with the member's case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. Hospice may be provided to the member in a Nursing Facility (NF) only when the member is placed in the NF for Sooner Seniors Facility Based Extended Respite. Hospice provided as part of Facility Based Extended respite may not be reimbursed for more than five days during any 30 day period. A member that is eligible for Medicare Hospice provided as a Medicare Part A benefit, is not eligible to receive Sooner Seniors Hospice services.

(C) Hospice services are billed per diem of service for days covered by a Hospice plan of care and during which the hospice provider is responsible for providing hospice services as needed by the member or member's family.

(13) **Sooner Seniors Waiver Personal Care.**

(A) Sooner Seniors Personal Care is assistance to a member in carrying out activities of daily living such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry, to assure personal health and safety of the individual or to prevent or minimize physical health regression or deterioration. Personal Care services do not include service provision of a technical nature, i.e. tracheal suctioning, bladder catheterization, colostomy irrigation, and operation/maintenance of equipment of a technical nature.

(B) Sooner Seniors Home Care Agency Skilled Nursing staff working in coordination with a Case Manager are responsible for development and monitoring of the member's Personal Care plan.

(C) Sooner Seniors Personal Care services are prior authorized and billed per 15-minute unit of service with units of service limited to the number of units on the approved plan of care.

(14) **Adult Day Health.** Adult Day Health services are scheduled for one or more days per week, in a community setting, encompassing both health and social services needed in order to provide optimal functioning of the member. Transportation between the member's place of residence and the adult day facility is provided and is included in the rate paid to providers of adult day health services.

(15) **Agency companion.** Agency companion services provide a living arrangement developed to meet the specific needs of the member that include a live-in companion providing supervision, supportive assistance, and training in daily living skills provided in a shared home owned or rented by the member, companion, or in a mutually rented or owned home;

(16) **Dental services.** Dental services include maintenance or improvement of dental health as well as relief of pain and infection. Coverage of dental services may not exceed \$1,000 per plan year of care. These services may include:

- (A) oral examination;
- (B) bite-wing x-rays;
- (C) prophylaxis;
- (D) topical fluoride treatment;
- (E) development of a sequenced treatment plan that prioritizes:

- (i) elimination of pain;
- (ii) adequate oral hygiene; and
- (iii) restoration or improved ability to chew;

(F) routine training of member or primary caregiver regarding oral hygiene; and

(G) preventive restorative, replacement and repair services to achieve or restore functionality are provided after appropriate review if applicable.

(17) **Family training.** Family training services are for families of the member being served through the waiver. For purposes of this service, "family" is defined as the persons who live with or provide care to a waiver member and may include a parent, spouse, children relatives, foster family or in-laws. Training includes instruction for the family member in skills and knowledge pertaining to the support and assistance of the waiver member. This training is specific to an individual member's needs. It is intended to allow the member's family to become more proficient in meeting the needs of the member. Specific family training services are included in the member's service plan.

(18) **Nutritional Education services.** Nutritional Education services focus on assisting the member and/or primary caregiver with the dietary aspects of the member's disease management. These services include dietary evaluation and consultation with individuals or their care provider. Services are provided in the member's home or when appropriate in a class situation. Services are

intended to maximize the individual's nutritional health. Services must be expressly for diagnosing, treating or preventing, or minimizing the effects of illness.

(19) **Vision services.** Vision services must be listed in the member's plan of care and include a routine eye examination for the purpose of prescribing glasses or visual aids, determination of refractive state, treatment of refractive errors or purchase of glasses to include lenses and frames; exceptions are made on the individual basis as deemed medically necessary. Amount, frequency and duration of services is prior authorized in accordance with the member's service plan, with a limit of one pair of glasses to include lenses and frames annually.

(20) **Personal Emergency Response System.**

(A) Personal Emergency Response System (PERS) is an electronic device which enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal, in accordance with member preference, a friend, a relative or a response center once a "help" button is activated. The response center is staffed by trained professionals. For a Sooner Seniors Program member to be eligible to receive PERS service, the member must meet all of the following service criteria:

- (i) a recent history of falls as a result of an existing medical condition that prevents the individual from getting up from a fall unassisted;
- (ii) lives alone and has no regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;
- (iii) demonstrates capability to comprehend the purpose of and activate the PERS;
- (iv) has a health and safety plan detailing the interventions beyond the PERS to assure the member's health and safety in his/her home;
- (v) has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and,
- (vi) the service avoids premature or unnecessary institutionalization of the member.

(B) PERS services are billed using the appropriate HCPC procedure code for installation, monthly service or purchase of PERS. All services are prior authorized in accordance with the Sooner Seniors approved plan of care.

(21) **Prescription drugs.** Members are eligible for a maximum of six prescriptions per month with a limit of three brand name prescriptions. Seven additional generic prescriptions per month are allowed if medically necessary. Medically necessary prescriptions beyond the three brand name or thirteen total prescriptions will be covered with prior authorization. More information on prescription drugs is provided at 317:30-5-72.

(22) **Pharmacological Evaluations.** Pharmacological evaluations are provided to waiver members to ensure proper management of medications. The evaluations consist of:

(A) An initial medication assessment performed in conjunction with the case manager and member.

(B) A written report after completion of both the initial visit and medication assessment to be provided to the case manager and prescribing physician(s). The report will contain the initial medication assessment and recommendations when appropriate.

(C) Follow-up visit, assessments and reports will be arranged with the case manager every four months after the initial visits, assessment and report for the first year the member is in the community. This will result in a total of three follow-up visits, assessments and reports per member.

(23) **Non-emergency Transportation.** Non-emergency, non-ambulance transportation services are available through the SoonerRide Non-Emergency Transportation (NET) program. SoonerRide NET is available on a statewide basis to all eligible members. SoonerRide NET includes non-emergency, non-ambulance transportation for members to and from SoonerCare providers of health care services. The NET must be for the purpose of accessing medically necessary covered services for which a member has available benefits. Additionally, SoonerRide NET may also be provided for eligible members to providers other than SoonerCare providers if the transportation is to access medically necessary services covered by SoonerCare. More information on SoonerRide NET services is located at 317:30-5-326.

(24) **Self-Direction.**

(A) Self-Direction is a method of service delivery that allows waiver members to determine supports and services they need to live successfully in a home or community based setting. A member choosing Self-Direction is the employer of record for his/her Personal Care and Advanced Supportive/Restorative Care service providers and must have an approved plan of care prior to initiation of any Self-Directed activities.

(B) The OHCA uses the following criteria to determine a member's service eligibility to participate in the Self-Directed Services program:

(i) residence in the Self-Directed services approved area;

(ii) member's health and safety with Self-Directed services can reasonably be assured based on a review of service history records and a review of member capacity and readiness to assume employer responsibilities under Self-Direction with any one of the following findings as basis to deny a request for Self-Direction due to inability to assure member health and safety:

(I) the member does not have the ability to make decisions about his/her care or

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- service planning and the member's "authorized representative" is not willing to assume Self-Directed services responsibilities, or
- (II) the member is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of Self-Direction such as in service planning, or in assuming the role of employer of the Personal Services Assistant (PSA) or Advanced Personal Services Assistant (APSA) service provider, or in monitoring and managing health or in preparation for emergency backup, or
- (III) the member has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention within the past 12 months and does not have an "authorized representative" with capacity to assist with Self-Direction responsibilities;
- (C) The member voluntarily makes an informed choice to Self-Direct services. As part of the informed choice, decision making process for Self-Direction, the OHCA staff or the Case Manager provides consultation and assistance as the member completes a self-assessment of preparedness to assume the role of employer for their Personal Services Assistant. The orientation and enrollment process will provide the member with a basic understanding of what will be expected of them under Self-Direction, the supports available to assist them to successfully perform employer responsibilities and an overview of the potential risks involved.
- (D) The OHCA uses the following criteria to determine that based upon documentation, a person is no longer allowed to participate in the Self-Directed Services option:
- (i) the member does not have the ability to make decisions about his/her care or service planning and the member's "authorized representative" is not willing to assume Self-Direction responsibilities; or
  - (ii) the member is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of Self-Direction such as in service planning, or in assuming the role of employer of the PSA or APSA service providers, or in monitoring and managing health or in preparation for emergency backup; or
  - (iii) the member has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention and does not have an "authorized representative" with capacity to assist with Self-Direction responsibilities; or
  - (iv) the member abuses or exploits their employee; or
  - (v) the member falsifies time-sheets or other work records; or

- (vi) the member, even with Case Manager and Financial Management Services assistance, is unable to operate successfully within their Individual Budget Allocation; or
  - (vii) inferior quality of services provided by member/employer's employee, or the inability of the member/employer's employee to provide the number of service units the member requires, jeopardizes the member's health and/or safety.
- (E) The member may designate a family member or friend as an "authorized representative" to assist in the service planning process and in executing member employer responsibilities. If the member chooses to designate an "authorized representative", the designation and agreement identifying the "willing adult" to assume this role and responsibility is documented with dated signatures of the member, the designee and the member's Case Manager or the OHCA staff.
- (i) A person having guardianship or power of attorney or other court sanctioned authorization to make decisions on behalf of the member has legal standing to be the member's designated "authorized representative".
  - (ii) An individual hired to provide Personal Services Assistance to a member may not be designated the "authorized representative" for the member.
- (F) Self-Directed Services are delivered as authorized on the service plan and are limited to Personal Care, Advanced Supportive/Restorative Care and Respite. The member employs the Personal Services Assistant (PSA) and/or the Advanced Personal Services Assistant (APSA) and is responsible, with assistance from the Administrative Financial Management Services (FMS), for ensuring that the employment complies with State and Federal Labor Law requirements. The member:
- (i) recruits, hires and, as necessary, discharges the PSA and APSA;
  - (ii) provides instruction and training to the PSA or APSA on tasks to be done and works with the Case Manager to obtain skilled nursing services assistance with training when necessary. Prior to performing an Advanced Personal Services Assistance task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member and the member must document the attendant's competency in performing each task in the APSA's personnel file;
  - (iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within Individual Budget Allocation limits, wages to be paid for the work;
  - (iv) supervises and documents employee work time; and,
  - (v) provides tools and materials for work to be accomplished.

(G) Financial Management Services are program administrative services provided to participating Self-Directed Service employer/members by agencies contracted with the OHCA. Financial Management Services are employer related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:

(i) employer payroll, at a minimum of semi monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;

(ii) other employer related payment disbursements as agreed to with the member and in accordance with the member's Individual Budget Allocation;

(iii) responsibility for obtaining criminal and abuse registry background checks, on behalf of the member, on prospective hires for PSAs or APSAs;

(iv) providing to the member, as needed, assistance with employer related cognitive tasks, decision-making and specialized skills that may include assistance with Individual Budget Allocation planning and support for making decisions including training and providing reference material and consultation regarding employee management tasks such as recruiting, hiring, training and supervising the member's Personal Services Assistant or Advanced Personal Services Assistant; and

(H) The service of Personal Services Assistance is billed per 15-minute unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the Service Plan.

(I) The service of Advanced Personal Services Assistance is billed per 15-minute unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the Service Plan.

(J) Self-Directed Services rates are determined using the Individual Budget Allocation (IBA) Expenditure Accounts Determination process for each member. The IBA Expenditure Accounts Determination process includes consideration and decisions about the following:

(i) The Individual Budget Allocation (IBA) Expenditure Accounts Determination constrains total SoonerCare reimbursement for Self-Directed services to be less than expenditures for equivalent services using agency providers.

(ii) The PSA and APSA service unit rates are calculated by the OHCA during the Self-Directed service eligibility determination process. The OHCA sets the PSA and APSA unit rates at a level that is not less than 80 percent and not more than 95 percent of the comparable Agency Personal Care (for PSA) or Advanced Supportive/Restorative (for APSA) service rate. The allocation of portions of the PSA and/or APSA rate to cover salary, mandatory taxes, and optional benefits (including Worker's Compensation insurance, if available) is determined individually for each member using the Self-Directed Services Individualized Budget Allocation Expenditure Accounts Determination Process.

(iii) The IBA Expenditure Accounts Determination process defines the level of program financial resources required to meet the member's need for Self-Directed services. If the member's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources, the Case Manager, based upon an updated assessment, amends the service plan to increase Self-Directed service units appropriate to meet additional member need. The OHCA, upon favorable review, authorizes the amended plan and updates the member's IBA. Service amendments based on changes in member need for services do not change an existing PSA or APSA rate. The member, with assistance from the FMS, reviews and revises the IBA Expenditure Accounts calculation annually or more often to the extent appropriate and necessary.

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